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सं. 19] नई दिल्ली, मई 7—मई 13, 2017, शनिवार/ वैशाख 17—वैशाख 23, 1939
No. 19] NEW DELHI, MAY 7—MAY 13, 2017, SATURDAY/ VAISAKHA 17—VAISAKHA 23, 1939

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 28 अप्रैल, 2017

का.आ. 1187.—राष्ट्रीय कृषि और ग्रामीण विकास बैंक अधिनियम, 1981 (1981 का 61) की धारा 6 की उप-धारा (1) के खण्ड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, भारतीय रिजर्व बैंक के परामर्श से, श्री आर. गांधी के स्थान पर, श्री बी.पी. कानूनगो, उप-गवर्नर, भारतीय रिजर्व बैंक को अधिसूचना की तारीख से और अगले आदेशों तक, जो भी पहले हो, राष्ट्रीय कृषि और ग्रामीण विकास बैंक (नाबार्ड) के निदेशक मण्डल में अंशकालिक निदेशक नामित करती है

[फा.सं. 7/2/2009-बीओ-1]

ज्ञानोत्तम राय, अवर सचिव

MINISTRY OF FINANCE
(Department of Financial Services)
New Delhi, the 28th April, 2017

S.O. 1187.—In exercise of the powers conferred by clause (c) of sub-section (1) of Section 6 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981), the Central Government, in consultation with the

Reserve Bank of India, hereby nominates Shri B.P. Kanungo, Deputy Governor, Reserve Bank of India as part-time Director on the Board of Directors of National Bank for Agriculture and Rural Development (NABARD) from the date of notification and until further orders whichever is earlier *vice* Shri R. Gandhi.

[F.No.7/2/2009-BO-I]

JNANATOSH ROY, Under Secy.

नई दिल्ली, 28 अप्रैल, 2017

का.आ. 1188.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा 3 के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री ए.वी. पाटील के स्थान पर, सुश्री अंजना दुबे, उप महानिदेशक, वित्तीय सेवाएं विभाग को तत्काल प्रभाव से और अगले आदेशों तक, आन्ध्रा बैंक के निदेशक मण्डल में सरकारी नामिती निदेशक नामित करती है।

[फा.सं. 6/3/2012-बीओ-I]

ज्ञानोतोष राय, अवर सचिव

New Delhi, the 28th April, 2017

S.O. 1188.—In exercise of the powers conferred by clause (b) of Sub-Section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980, read with sub-clause (1) of clause 3 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby nominates Ms. Anjana Dube, Deputy Director General, Department of Financial Services as Government Nominee Director on the Board of Directors of Andhra Bank, with immediate effect and until further orders *vice* Shri A. V. Patil.

[F.No. 6/3/2012-BO-I]

JNANATOSH ROY, Under Secy.

नई दिल्ली, 1 मई, 2017

का.आ. 1189.—राष्ट्रीय आवास बैंक अधिनियम, 1987 (1987 का 53) की धारा (6) की उप-धारा (1) के खण्ड (ड.) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, ग्रामीण विकास मंत्रालय, नई दिल्ली में संयुक्त सचिव, श्री प्रशांत कुमार को श्री राजीव सदानंदन, संयुक्त सचिव, ग्रामीण विकास मंत्रालय के स्थान पर तत्काल प्रभाव से और अगले आदेशों तक, राष्ट्रीय आवास बैंक के निदेशक मंडल में निदेशक नियुक्त करती है।

[फा.सं. 24/17/2010-आईएफ-II]

राजीव शर्मा, अवर सचिव

New Delhi, the 1st May, 2017

S.O. 1189.—In exercise of the powers conferred by clause (e) of sub-section (1) of Section 6 of the National Housing Bank Act, 1987 (53 of 1987), the Central Government hereby appoints Shri Prashant Kumar, Joint Secretary, Ministry of Rural Development, as a Director on the Board of Directors of National Housing Bank with immediate effect and until further orders *vice* Shri Rajeev Sadanandan, Joint Secretary.

[F. No. 24/17/2010-IF-II]

RAJIV SHARMA, Under Secy.

मानव संसाधन विकास मंत्रालय

(उच्चतर शिक्षा विभाग)

(राजभाषा प्रभाग)

नई दिल्ली, 28 अप्रैल, 2017

का.आ. 1190.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम 4 के अनुसरण में, मानव संसाधन विकास मंत्रालय (स्कूल शिक्षा एवं साक्षरता विभाग) के अंतर्गत केन्द्रीय विद्यालय संगठन (मुख्यालय) के अधीन केन्द्रीय विद्यालय, नुब्रा (डिस्कित), जिला – लेह (लद्दाख), जम्मू व कश्मीर – 194401 को ऐसे कार्यालय के रूप में, जिसके 80 प्रतिशत से अधिक कर्मचारी-वृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :-

[सं.11011-3/2016-रा.भा.ए.]

सुखबीर सिंह संधु, संयुक्त सचिव

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Higher Education)

(O. L. UNIT)

New Delhi, the 28th April, 2017

S.O. 1190.—In pursuance of sub-rule (4) of rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notify the Kendriya Vidyalaya, Nubra (Diskit), Distt. Leh (Laddakh), Jammu & Kashmir-194401 of Kendriya Vidyalaya Sangathan (HQ) under the Ministry of Human Resource Development, (Department of School Education & Literacy) as an office, whose more than 80% members of the staff have acquired working knowledge of Hindi.

[No. 11011-3/2016-O.L.A.]

SUKHBIR SINGH SANDHU, Jt. Secy.

संचार मंत्रालय

(दूरसंचार विभाग)

नई दिल्ली, 5 मई, 2017

का.आ. 1191.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में, संचार मंत्रालय, दूरसंचार विभाग के अंतर्गत आने वाले निम्नलिखित कार्यालय, जिसके 80% से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है :

1. कर्नाटक दूरसंचार परिमंडल के प्रधान महाप्रबंधक का कार्यालय, भारत संचार निगम लिमिटेड, चिकमगलूर (कर्नाटक) तथा
 2. दूरसंचार जिला प्रबंधक, बीदर (कर्नाटक)
2. यह अधिसूचना राजपत्र में प्रकाशन की तारीख से लागू होगी ।

[सं. ई-11016/01/2017- राजभाषा]

सुधेश कुमार शाही, उप महानिदेशक (समन्वय एवं प्रशासन)

MINISTRY OF COMMUNICATIONS

(Department of Telecommunications)

New Delhi, the 5th May, 2017

S.O. 1191.—In pursuance of Sub-rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following offices under the control of Ministry of

Communications, Department of Telecommunications, Whereof more than 80% staff have acquired working knowledge of Hindi :

1. “Office of the Principal General Manager, Bharat Sanchar Nigam Limited, Chikmagalur (Karnataka) and
2. Office of the Telecom District Manager, Bidar (Karnataka) under the Karnataka Telecom Circle”
2. This Notification shall come into force from the date of its publication in the Official Gazette.

[No. E-11016/01/2017-O.L.]

S. K. SHAHI, DDG (C & A)

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य और परिवार कल्याण विभाग)

शुद्धि-पत्र

नई दिल्ली, 11 अप्रैल, 2017

का.आ. 1192.—इस विभाग की अधिसूचना सं. यू-12012/01/2017-एमई-I (भाग-VI) दिनांक 20.02.2017 के अनुक्रम में भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद् से परामर्श करके उक्त अधिनियम की प्रथम अनुसूची में, निम्नलिखित, और संशोधन करती है, अर्थात् :-

उक्त अनुसूची में -

- (ड) “स्वामी रामा हिमालयन विश्वविद्यालय, देहरादून” के समक्ष ‘पंजीकरण के लिए संक्षिप्तकरण’ कालम (3) शीर्षक के अंतर्गत डीएम (रेडियोथेरेपी) के बजाय एमडी (रेडियोथेरेपी) ‘मान्यताप्राप्त आयुर्विज्ञान अर्हता होगी जब यह हिमालयन इंस्टिट्यूट ऑफ मेडिकल साइंसिस, देहरादून में 2016 में अथवा उसके पश्चात प्रशिक्षित किए गए छात्रों को स्वामी रामा हिमालयन विश्वविद्यालय, देहरादून द्वारा प्रदत्त होगी।

[सं. यू-12012/01/2017-एमई-I (भाग-VI)]

डी. वी. के. राव, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

CORRIGENDUM

New Delhi, the 11th April, 2017

S.O. 1192.—In continuation to this Department’s Notification No. U-12012/01/2017-ME-I (P. VI) dated 20.02.2017, and in exercise of the powers conferred by sub-section(2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby makes the following further amendments in the First Schedule to the said Act, namely:-

In the said Schedule -

- (e) against “Swami Rama Himalayan University, Dehradun”, under the heading ‘Abbreviation for Registration’ (column 3), the MD (Radiotherapy) instead of DM (Radiotherapy) qualification shall be a recognised medical qualification when granted by Swami Rama Himalayan University, Dehradun in respect of students being trained at Himalayan institute of Medical Sciences, Dehradun on or after 2016.

[No. U-12012/01/2017-ME-I (Pt. VI)]

D. V. K. RAO, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 1 मई, 2017

का.आ. 1193.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम (4) के उपविनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं:-

अनुसूची

क्रम संख्या	लाइसेंस संख्या	स्वीकृत करने की तिथि	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा मा	भाग	अनु	वर्ष
1.	एल-9512367123	02.12.2016	मै. पायल ज्वैलर्स, 725-726, ओल्ड मार्किट, ओल्ड फरीदाबाद, जिला फरीदाबाद - 121002, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/ शिल्प वस्तुएँ - महीनता एवं मुहरांकन	1417	-	-	1999
2.	एल-9512367822	01.12.2016	मै. कमपैक्ट प्लाई बोर्डस (प्रा.) लि., 43 के. एम. माइलस्टोन, दिल्ली रोहतक रोड, एन एच - 10, रोहद, बहादुरगढ़, जिला झज्जर, हरियाणा	लकड़ी के सपाट दरवाजे के शटर (ठोस कोर प्रकार) भाग 1 प्लाईवुड सतहयुक्त पल्ले	2202	01	-	1999
3.	एल-9512367317	02.12.2016	मै. श्री शंकर ज्वैलर्स, 2195, एयर फोर्स रोड, जवाहर कलोनी, एन. आई. टी., जिला फरीदाबाद - 121005, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/ शिल्प वस्तुएँ - महीनता एवं मुहरांकन	1417	-	-	1999
4.	एल-9512367418	02.12.2016	मै. श्री लक्ष्मी ज्वैलर्स, पुरानी सब्जी मण्डी, सदर बाजार, जिला गुडगाँव, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/शिल्प वस्तुएँ- महीनता एवं मुहरांकन	1417	-	-	1999
5.	एल-9512367519	02.12.2016	मै. श्री लक्ष्मी ज्वैलर्स, पुरानी सब्जी मण्डी, सदर बाजार, जिला गुडगाँव, हरियाणा	चौदी एवं चौदी मिश्रधातु आभूषण/ शिल्प वस्तुएँ - महीनता एवं मुहरांकन	2112	-	-	2014

6.	एल- 9512367923	06.12.2016	मै. एसीसीआईएल ऑटो स्टील प्रा. लि., प्लॉट नं. 6-13, ग्रोथ सैन्टर, सैक्टर - 6, बावल, जिला रिवाड़ी - 123005, हरियाणा	अतप्त लघुकृत अल्प कार्बन इस्पात की चादर एवं पत्ती	513	-	-	2008
7.	एल - 9512368723	09.12.2016	मै. आईयूपी जिन्दल मैटल्स एलोएस लि., दहकोरा रोड, गाँव रोहद, बहादुरगढ़, जिला झज्जर - 124501, हरियाणा	बर्तनों और रसोई घर साधित्रों के लिए अल्प निकल ऑस्टेनिटीक स्टेनलेस स्टील की चादर एवं पत्ती	15997	-	-	2012
8.	एल - 9512368024	14.12.2016	मै. जय बालाजी इन्टरप्राइसिस, खेवट नं. 958, खतौनी नं. 1134, रोहतक रोड, तहसील मेहम के निकट, जिला रोहतक - 114112, हरियाणा	खड्गे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
9.	एल - 9512368117	16.12.2016	मै. धर्म ज्वैलर्स, 918, सैक्टर - 10, जिला फरीदाबाद - 121006, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/ शिल्प वस्तुएँ - महीनता एवं मुहरांकन	1417	-	-	1999
10.	एल - 9512368218	16.12.2016	मै. धर्म ज्वैलर्स, 918, सैक्टर - 10, जिला फरीदाबाद - 121006, हरियाणा	चौदी एवं चौदी मिश्रधातु आभूषण/ शिल्प वस्तुएँ - महीनता एवं मुहरांकन	2112	-	-	2014
11.	एल - 9512368420	19.12.2016	मै. श्री धर्म ज्वैलर्स, 829/24, कृष्णा कलौनी, सैक्टर 7 एक्सटेंशन के निकट, जिला गुडगाँव - 122001, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/ शिल्प वस्तुएँ - महीनता एवं मुहरांकन	1417	-	-	1999
12.	एल - 9512368521	19.12.2016	मै. ए. एस. ज्वैलर्स, 908/22, शिव नगर, जिला गुडगाँव - 122001, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/शिल्प वस्तुएँ- महीनता एवं मुहरांकन	1417	-	-	1999

13.	एल - 9512368622	19.12.2016	मै. ए. एस. ज्वैलर्स, 908/22, शिव नगर, जिला गुडगाँव - 122001, हरियाणा	चौदी एवं चौदी मिश्रधातु आभूषण/ शिल्प वस्तुएँ - महीनता एवं मुहरांकन	2112	-	-	2014
14.	एल - 9512369018	19.12.2016	मै. एजीआर स्टील सट्रिप्स (प्रा.) लि., 69, धारूहेड़ा इण्डस्ट्रीयल एरिया, धारूहेड़ा, जिला रिवाड़ी - 123106, हरियाणा	अतप्त लघुकृत अल्प कार्बन इस्पात की चादर एवं पत्ती	513	-	-	2008
15.	एल - 9512368319	20.12.2016	मै. कमपैक्ट प्लाई बोर्ड (प्रा.) लि., 43 के. एम. माइलस्टोन, दिल्ली रोहतक रोड, एन एच - 10, रोहद, बहादुरगढ़, जिला झज्जर, हरियाणा	परतदार सजावटी प्लाईवुड	1328	-	-	1996
16.	एल - 9512368824	21.12.2016	मै. श्री श्याम टाइल्स, नैचाना रोड, गाँव जलालपुर, तहसील बावल, जिला रिवाड़ी - 123501, हरियाणा	खडंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
17.	एल - 9512369119	21.12.2016	मै. एस. एस. टाइल्स एण्ड ट्रेडर्स, गाँव बहामणवास नूरगढ़, जिला गुडगाँव - 122504, हरियाणा	खडंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
18.	एल - 9512370718	21.12.2016	मै. जोनेजा ब्राइट स्टील्स प्रा. लि., प्लॉट नं० 239, सैक्टर - 24, जिला फरीदबाद - 121005, हरियाणा	सामान्य इंजीनियरी अनुप्रयोगों के लिए मृदु इस्पात की तार	280	-	-	2006
19.	एल - 9512368925	26.12.2016	मै. एस. ए. ज्वैल्स, मेन बाजार, बहादुरगढ़, जिला झज्जर - 124507, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/ शिल्प वस्तुएँ- महीनता एवं मुहरांकन	1417	-	-	1999

20.	एल- 9512374718	28.12.2016	मै. नीतू इन्टरप्राइसिस, बालाजी मन्दिर के निकट, गॉव साहूपुरा, बल्लभगढ़, जिला फरीदाबाद -121004, हरियाणा	पैकेजबन्द पेय जल (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा)	14543	-	-	2004
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[सं. सीएमडी/13:11]

सुनील कुमार, वैज्ञानिक एफ एवं प्रमुख

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**(Department of Consumer Affairs)****(BUREAU OF INDIAN STANDARDS)**

New Delhi, the 1st May, 2017

S.O. 1193.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :

SCHEDULE

Sl. No.	Licences No. CM/L-	Grant Date	Name & Address of the Licensee	Title of the Standard	IS No.	Part	Sec.	Year
1.	L- 9512367123	01.12.2016	M/s Payal Jewellers 725-726, Old Market, Old Faridabad Distt. Faridabad – 121002, Haryana	Gold and Gold Alloys Jewellery/Artefacts - Fineness and Marking	1417	-	-	1999
2.	L- 9512367822	01.12.2016	M/s Compact Ply Boards (P) Ltd., 43 K.M Mile Stone, Delhi Rohtak Road, NH – 10, Rohad, Bahadurgarh, Distt. Jhajjar, Haryana	Wooden Flush Door Shutters (Solid Core Type) Part 1 Plywood Face Panels	2202	01	-	1999
3.	L- 9512367317	02.12.2016	M/s Shree Shankar Jewellers, 2195, Air Force Road, Jawahar Colony, N.I.T., Distt. Faridabad - 121005, Haryana	Gold and Gold Alloys Jewellery/Artefacts - Fineness and Marking	1417	-	-	1999
4.	L- 9512367418	02.12.2016	M/s Shri Laxmi Jewellers, Old Sabzi Mandi, Sadar Bazar, Distt. Gurgaon, Haryana	Gold and Gold Alloys Jewellery/Artefacts - Fineness and Marking	1417	-	-	1999

5.	L-9512367519	02.12.2016	M/s Shri Laxmi Jewellers, Old Sabzi Mandi, Sadar Bazar, Distt. Gurgaon, Haryana	Silver and Silver Alloys Jewellery/Artefacts – Fineness and Marking	2112	-	-	2014
6.	L-9512367923	06.12.2016	M/s ACCIL Auto Steel Pvt. Ltd., Plot No.6-13, Growth Centre, Sector - 6, Bawal, Distt. Rewari – 123005, Haryana	Cold Reduced Low Carbon Steel Sheets and Strips	513	-	-	2008
7.	L-9512368723	09.12.2016	M/s IUP Jindal Metals Alloys Ltd., Dehkora, Village – Rohad, Bahadurgarh, Distt. Jhajjar - 124501, Haryana	Low nickel Austenitic Stainless Steel Sheet & Strip for Utensils and Kitchen	15997	-	-	2012
8.	L-9512368024	14.12.2016	M/s Jai Balaji Enterprises, Khewat No. 958, Khatoni No. 1134, Rohtak Road, Near Tehsil Meham, Distt. Rohtak - 114112, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
9.	L-9512368117	16.12.2016	M/s Dharam Jewellers, 918, Sector-10, Distt. Faridabad - 121006, Haryana	Gold and Gold Alloys Jewellery/Artefacts - Fineness and Marking	1417	-	-	1999
10.	L-9512368218	16.12.2016	M/s Dharam Jewellers, 918, Sector-10, Distt. Faridabad - 121006, Haryana	Silver and Silver Alloys Jewellery/Artefacts – Fineness and Marking	2112	-	-	2014
11.	L-9512368420	19.12.2016	M/s Shree Dharam Jewellers, 829/24, Krishna Colony, Near Sector-7 Extn., Distt. Gurgaon - 122001, Haryana	Gold and Gold Alloys Jewellery/Artefacts - Fineness and Marking	1417	-	-	1999
12.	L-9512368521	19.12.2016	M/s A. S. Jewellers, 908/22, Shiv Nagar, Distt. Gurgaon - 122001, Haryana	Gold and Gold Alloys Jewellery/Artefacts - Fineness and Marking	1417	-	-	1999
13.	L-9512368622	19.12.2016	M/s A. S. Jewellers, 908/22, Shiv Nagar, Distt. Gurgaon - 122001, Haryana	Silver and Silver Alloys Jewellery/Artefacts – Fineness and Marking	2112	-	-	2014

14.	L-9512369018	19.12.2016	M/s AGR Steel Strips (P) Ltd., 69, Dharuhera Industrial Area, Dharuhera, Distt. Rewari – 123106, Haryana	Cold Reduced Low Carbon Steel Sheets and Strips	513	-	-	2008
15.	L-9512368319	20.12.2016	M/s Compact Ply Boards (P) Ltd., 43 K. M. Mile Stone, Delhi Rohtak Road, N H – 10, Rohad, Bahadurgarh, Distt. Jhajjar, Haryana	Veneered Decorative Plywood	1328	-	-	1996
16.	L-9512368824	21.12.2016	M/s Shree Shyam Tiles, Naichana Road, Village Jalalpur, Tehsil Bawal, Dist. Rewari - 123501, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
17.	L-9512369119	21.12.2016	M/s S.S. Tiles & Traders, Village Bramanwas Nurgarh, Distt. Gurgaon – 122504, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
18	L-9512370718	21.12.2016	M/s Joneja Bright Steels Pvt. Ltd., Plot No.239, Sector-24, Distt. Faridabad - 121005, Haryana	Mild Steel Wire for General Engineering Purposes	280	-	-	2006
19.	L-9512368925	26.12.2016	M/s S. A. Jewellers, Main Bazar, Bahadurgarh, Distt. Jhajjar – 124507, Haryana	Gold and Gold Alloys Jewellery/Artefacts - Fineness and Marking	1417	-	-	1999
20.	L-9512374718	28.12.2016	M/s Neetu Enterprises, Near Balaji Mandir, Village Sahupura, Ballabgarh, Distt. Faridabad - 121004, Haryana	Packaged Drinking Water (Other Than Packaged Natural Mineral Water)	14543	-	-	2004

[No. CMD/13:11]

SUNIL KUMAR, Scientist F & Head

नई दिल्ली, 1 मई, 2017

का.आ. 1194.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम (5) के उपविनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शायी गई तारीख से रद्द/स्थगित कर दिया गया है :-

अनुसूची

क्रम संख्या	लाइसेंस संख्या सीएम/एल	लाइसेंसधारी का नाम व पत्ता	लाइसेंस के अन्तर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द करने की तिथि
01	एल-9512353516	मै. इण्डियन ओरचिड मिनरल्स, 62/4, डीएवी स्कूल के निकट, कुशलीपुर, जिला पलवल - 121102, हरियाणा	पैकेजबन्द पेय जल (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) आई एस 14543:2004	07.12..2016
02	एल-1830753	मै. हैवल्स इण्डिया लि0, 14/3, मथुरा रोड, जिला फरीदाबाद - 121002, हरियाणा	कम वोल्टेज स्विचगियर और कन्ट्रोलगियर भाग 3: स्विचिस, डिसकनेक्टरस और फ्यूज़ कॉम्बिनेशन यूनिट्स आई एस 13947(Part 3):1993	14.12.2016

[सं. सीएमडी/13:13]

सुनील कुमार, वैज्ञानिक एफ एवं प्रमुख

New Delhi, the 1st May , 2017

S.O. 1194.—In pursuance of sub-regulation (6) of the regulation 5 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies that the licences particulars of which are given below have been cancelled/suspended with effect from the date indicated against each:

SCHEDULE

Sl. No.	Licences No. CM/L-	Name & Address of the Licensee	Article/Process with relevant Indian Standards covered by the licence cancelled/suspension	Date of Cancellation
01	L-9512353516	M/s Indian Orchid Minerals, 62/4, Near DAV School, Kushlipur, Distt. Palwal - 121102, Haryana	Packaged Drinking Water (Other Than Packaged Natural Minerals Water) IS 14543:2004	07.12..2016
02	L-1830753	M/s Havells India Ltd., 14/3, Mathura Road, Distt. Faridabad - 121002, Haryana	Low Voltage Switchgear and Controlgear Part 3: Switces, Disconnectors and Fuse Combination Units IS 13947(Part 3):1993	14.12..2016

[No. CMD/13:13]

SUNIL KUMAR, Scientist F & Head

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 28 अप्रैल, 2017

का.आ. 1195.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यूसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 57/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.04.2017 को प्राप्त हुआ था।

[सं. एल-22012/385/99-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 28th April, 2017

S.O.1195.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 57/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in Annexure, in the industrial dispute between the management of Western Coalfields Limited and their workmen, received by the Central Government on 26.04.2017.

[No. L-22012/385/99-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/57/2000**

The President,
Coal Mines Engineering Workers Association,
PO Palachouri,
Distt. Chhindwara

...Workman/Union

Versus

Manager,
Ambara colliery of WCL,
PO Ambara,
Distt. Chhindwara

...Management

AWARDPassed on this 31st day of March 2017

1. As per letter dated 29-2-2000 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D.Act, 1947 as per Notification No. L-22012/385/99/IR(CM-II). The dispute under reference relates to:

“Whether the action of the Manager, Ambara colliery of WCL, PO (Ambara, Distt. Chhindwara (MP) in dismissing Shri Sunderlal S/o Chamori, General Mazdoor w.e.f. 17-6-96 is legal and justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Statement of claim is submitted by Coal Mine Engineering workers Association at Page 3/1 to 3/4. Case of Ist party is that he was working on post of General Mazdoor in Ambara colliery from 24-4-77. His date of birth is 1-7-55. Chargesheet was issued to him by Mines Manager on 1-11-95 alleging unauthorized absence from 23-9-95 to 22-10-95. It is not understood on whose complaint about unauthorized absence of Ist party, chargesheet was issued. After chargesheet dated 1-11-95, he was permitted to work and additional charges were paid to him. Ist party workman Sundarlal working as General Mazdoor had submitted application dated 22-10-95 along with medical certificate. Ist party Union further submits that workman Sundarlal remained absent because of illness. He was given benefits of quarter, electricity, water etc. the charge alleged against him was not of serious nature. Workman had also prayed for excuse. Appointment of Enquiry Officer is illegal. Punishment of dismissal against workman is illegal. On such ground, workman prays for reinstatement with consequential benefits.

3. 2nd party management filed Written Statement opposing claim of Ist party. It is contented that reference is raised highly belated is not tenable. That the coal mines Engineering workers association has no locus to raise the dispute. That workman was employed as General Mazdoor in WCL. He was in habit of remaining absent without sanctioned leave or intimation. Warning was issued to him on 26-7-95. On 22-10-95, said workman submitted application apologizing misconduct alleged on his part and permission for resuming duty. Reply of Ist party workman was found unsatisfactory. Enquiry was conducted appointing Enquiry Officer. 2nd party further submits if enquiry is found vitiated, it be permitted to prove misconduct adducing evidence. That punishment imposed against workman is proper and legal considering serious nature of charge alleged against him. 2nd party prays for rejection of claim.
4. Rejoinder is filed by workman at Page 6/1 to 6/7 reiterating his contentions in statement of claim.
5. As per order dated 24-6-15, enquiry conducted against workman is found legal.
6. Considering pleadings on record and findings on enquiry, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the charges alleged against workman is proved from evidence in Enquiry proceedings?	In Affirmative
(ii) Whether the punishment of dismissal imposed against workman is proper and legal?	In Negative
(ii) If not, what relief the workman is entitled to?"	As per final order.

REASONS

7. Point No.1 As per order dated 24-6-15, enquiry conducted against workman is found legal therefore question remains for consideration whether charge of unauthorised absence alleged against workman is proved needs to be decided from evidence in Enquiry Proceedings.
8. 2nd party has produced documents of enquiry at Exhibit M-1 to 6. Exhibit M-1 is warning letter issued to workman Sundar Lal dated 20-1-95. In Exhibit M-2, workman has admitted he not attended duty since 23-9-95 because of illness. He was absent for one month. In M-4, workman has stated that he had not given intimation about his absence from 23-9-95 as no hand was available with him. Ist party has not produced any documents about his illness in Enquiry Proceedings. He admitted his absence from duty. Documents noted above are sufficient to prove charge against Ist party workman. For above reasons, I record my finding in Point No.1 in Affirmative.
9. Point No.2- Question remains for consideration whether punishment of dismissal imposed against workman for charge of unauthorized absence is proper and legal. Chargesheet issued to workman for absence from duty. In his statement recorded at page 11 of Enquiry Proceedings, workman claims that he was suffering from illness and receiving treatment from local Hakim, any documents are not produced. The proved charge against workman is for unauthorised absence from 22-10-95 till 1-11-95 for short period, therefore punishment of dismissal imposed against workman appears shockingly disproportionate. For workman remaining absent for such short period, punishment of dismissal is not justified. In my considered view, punishment of dismissal deserves to be modified to compulsory retirement. Accordingly I record my finding in Point No.2.
10. In the result, award is passed as under:-
- (1) The action of the management in dismissing Shri Sunderlal S/o Chamori, General Mazdoor w.e.f. 17-6-96 is not proper and legal.
 - (2) Order of dismissal of workman dated 17-6-96 is quashed. Punishment of dismissal is modified to compulsory retirement. 2nd party is directed to give all retiral benefits to the workman.
 - (3) Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 28 अप्रैल, 2017

का.आ. 1196.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एसईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 15/05) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.04.2017 को प्राप्त हुआ था।

[सं. एल-22012/59/2004-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 28th April, 2017

S.O. 1196.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 15/05) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in Annexure, in the industrial dispute between the management of South Eastern Coalfields Limited and their workmen, received by the Central Government on 26.04.2017.

[No. L-22012/59/2004-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/15/2005

Secretary/ President,
Samyukta Koyla Mazdoor Sangh, (AITUC),
C/o Sanjay Mishra, Telephone Exchange,
Po Kotma Colliery, Distt. Shahdol

...Workman/Union

Versus

Sub Area Manager,
Amadand Sub Area of SECL,
PO chokan,
Distt. Shahdol

...Management

AWARD

Passed on this 31st day of March 2017

1. As per letter dated 17-1-2005 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-22012/59/2004-IR(CM-II). The dispute under reference relates to:

“Whether the action of the Sub Area Manager, Amadand Sub Area of SECL in not promoting/ regularizing Shri Mohan Mishra, Mechanical Helper to the post of Mechanical Fitter is legal and justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 3/1 to 3/3. Case of Ist party is that he was appointed as Mechanical Helper in January 1994. Lateron he was regularized on post of Mechanical Helper on 17-9-98. While working on post of mechanical helper in the year 2000, workman was directed to work on higher post of mechanical fitter since June 2000. Workman was continuously working on post of mechanical fitter Grade IV. That SECL management framed policy laying down if workman is employed to work on higher post and continues to work on such higher post for more than 240 days in surface, 190 days at underground, workman shall be entitled to the promotion to the post of higher scale. That he worked on post of mechanical fitter which is higher post than the post of mechanical helper therefore he is entitled to be regularized on post of mechanical fitter Grade IV.

3. Ist party further submits that management did not grant benefit of promotion to the post of mechanical fitter despite his representation for several years. The dispute is raised under Section 10 of ID Act. After FOC, the dispute has been referred. It is reiterated that he was denied promotion to the post of mechanical fitter as per policy of the company. Similar benefit was granted to other employees on higher post of Fitter. On such ground, workman prays for promotion/ regularization on the post of mechanical fitter since completion of 190 days work.

4. 2nd party management filed Written Statement at page 6/1 to 6/5 opposing claim of workman. Preliminary objection is raised that Ist party has not stated from which date he is entitled to get promotion. Claim of workman is vague as such not tenable. The order of reference is not tenable on ground of delay and latches. Ist party workman was initially appointed as piece rated labour from 29-12-1990. He was working as piece rated labour. Secretary of RCWF Kotma branch raised the dispute claiming regularization. Management had arrived to settlement in Form H as per order dated 13-10-99. Ist party was regularized on post of Electrical Helper Category II. Workman was not permitted to work as mechanical helper. The services of coal employees are covered by NCWA. The cadre scheme is provided under NCWA in the matter of promotion. Educational qualification, eligibility and mode of promotion etc. the DPC was constituted for promotion in Mechanical Category IV from Cat-II and Ist party was given opportunity to appear for consideration for promotion. Ist party was considered by DP along with other eligible candidates. Workman had

failed in trade test. DPC did not recommend his name. Therefore Ist party is not entitled to promotion to the post of mechanical fitter claimed by him. 2nd party prays for rejection of claim.

5. Ist party workman filed rejoinder at page 8/1 to 8/3 reiterating his contentions in statement of claim. That he was denied promotion to the post of mechanical fitter Grade IV. He was denied charges of said post as such Ist party was discriminated. He is not entitled for regularization.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the Sub Area Manager, Amadand Sub Area of SECL in not promoting/regularizing Shri Mohan Mishra, Mechanical Helper to the post of Mechanical Fitter is legal and justified?	In Negative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

7. Point No.1- The term of reference pertains to denial of promotion to Ist party to the post of Mechanical Fitter. Ist party workman filed affidavit of his evidence supporting his contentions in statement of claim that he was working continuously on post of mechanical fitter since June 2000. Other employees working on said post were regularized. Ist party workman was discriminated. He was not paid wages for the post of mechanical fitter. The illegalities were committed by the management denying promotion to the opost of Mechanical Fitter Grade IV. In his cross, workman says on 29-12-90, he was appointed by department as loader on piece rat basis. There is no rule for promotion in coal India. His services are governed by NCWA & cadre scheme framed under it. In 2002, he appeared before DPC. He was found not fit. He was posted as mechanical helper in 1998. DPC conducted written exam. Document Exhibit M-1 pertains to examination conducted by DPC. He denies that he claims promotion as per cadre scheme. He denies that he was regularized on post of electrical helper. He admits that he was regularized on post of mechanical helper. Ist party had denied that he not passed examination conducted by DPC for mechanical fitter therefore he was not recommended for promotion. Exhibit W-1 produced by Ist party pertains to reply dated 26-11-03 submitted by Ist party. Exhibit W-2 pertains to Ist party was working as mechanical helper Cat-II in underground mines from 11-8-98. He was also working as mechanical fitter Cat-IV, wages for mechanical helper Cat-IV were paid to Ist party. That merely working on said post doesnot give right for regularization to Ist party. Exhibit W-3 is order of promotion dated 22-7-05, 5 employee were promoted as mechanical helper Cat-II- name of Ist party is not appearing.

8. Affidavit of witness of Ist party is filed supporting claim of Ist party workman that he was appointed as mechanical helper in January 1994. He was regularized on post of mechanical helper in January 1994. He was regularized on post of mechanical helper on 17-9-98. While working in the year 2000, workman directed to work on the post of mechanical helper since June 2000. Thereafter Ist party was continuously working on post of mechanical helper. Ist party workman worked for 240 days on surface and 190 days in underground. Ist party was not granted promotion as per order dated 29-11-02. Witness of Ist party in his cross examination says his affidavit is drafted by Advocate. He resides at Govinda District, Annupur. In the year 2000, he had come for preparing his affidavit of evidence before Oath Commissioner.

9. Management's witness Shri S.R.Pandey in his affidavit of evidence stated that initially Ist party was appointed as piece rated labour on 29-12-90. He was working as piece rated loader. The settlement was arrived on 13-10-98. Workman was regularized as electrical helper Category II. The service conditions of coal industry are covered by NCWA & promotion as per cadre scheme. DPC had given opportunity to Ist party for promotion to the post of Mechanical Helper Cat-IV on the basis of seniority. DPC did not recommend case of workman for promotion. Workman cannot take advantage of any circular prior to the introduction of cadre scheme. Management's witness in his cross says he was not member of DPC Committee relating to present dispute. He denies that he doesnot know facts of the case. Witness reiterates he has knowledge as per available records. That test for promotion by DPC, it is necessary that workman should appear before DPC.

10. Management's witness Shri P.K.Shrivastava also filed affidavit of his evidence reiterating that DPC was constituted to consider promotion to the post of mechanical fitter Cat-IV. Ist party was also given opportunity by DPC. Workman failed in the trade test held by DPC therefore he was not recommended for promotion. In his evidence Exhibit M-6, the record of DPC is produced. In his cross, management's witness says meeting of DPC was held on 18-11-02. He was member of said committee. Ist party was called for trade test. The score of trade test is shown in

Exhibit M-6. Other documents Exhibit M-7 to 29 are produced by management are admitted in evidence. Management's witness denies that because of enmity with Ist party, he was denied promotion to the post of Mechanical Fitter Cat-IV. Cross-examination of Ist party shows promotion to the post of mechanical helper Category IV are covered by cadre scheme on recommendations of DPC. Exhibit M-2 shows Ist party was appointed as dependent on piece rated loader. Exhibit M-2 shows Ist party was regularized on post of Electrical Helper Category II on 13-10-01. Exhibit M-4 is copy of service register of Ist party. Exhibit M-5 shows that Ist party was transferred to J&K Area on 29-5-98. Exhibit M-6 is copy of cadre scheme. Clarifications for post of mechanical Fitter Cat-IV are provided. 7 employees were promoted to mechanical fitter Category IV, name of workman is not appearing in it. Ist party has not produced documents that he passed trade test. Claim of Ist party for regularization to the post of mechanical helper Category IV cannot be allowed. For above reasons, I record my finding in Point No.1 in Negative.

11. In the result, award is passed as under:-

- (1) The action of Sub Area Manager, Amadand Sub Area of SECL in not promoting/ regularizing Shri Mohan Mishra, Mechanical Helper to the post of Mechanical Fitter is legal and proper.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 28 अप्रैल, 2017

का.आ. 1197.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 66/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.04.2017 को प्राप्त हुआ था।

[सं. एल-22012/338/2005-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 28th April, 2017

S.O. 1197.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 66/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in Annexure, in the industrial dispute between the management of M/s. Eastern Coalfields Limited and their workmen, received by the Central Government on 26.04.2017.

[No. L-22012/338/2005-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 66 OF 2006

PARTIES :

The management of Bahula Colliery of M/s. ECL

Vs.

Sri Arjun Turi

REPRESENTATIVES :

For the management : Sri P. K. Das, Learned Advocate

For the union (Workman) : Sri S.K. Pandey, Union Representative

Industry : Coal

State : West Bengal

Dated: 13.04.2017

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter

No. L-22012/338/2005–IR(CM-II) dated 05.09.2006 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Bahula Colliery under Kenda Area of M/s. Eastern Coalfields Limited in dismissing Sri Arjun Turi, Ex-UG Loader, U.M. No. 528902 w.e.f. 30.09.2004 is legal and justified? If not, to what relief is the workman entitled ? ”

1. Having received the **NO. L-22012/338/2005–IR(CM-II)** dated 05.09.2006 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. **66 of 2006** was registered on 25.09.2006. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.

2. The workman Sri Arjun Turi has alleged in his written statement that he was in employment of the company as Loader at Bahula Colliery under Kenda Area of M/s. Eastern Coalfields Limited bearing Man No. 528902. He was seriously ill therefore he was absent from duty w.e.f. 04.04.2003. He was chargesheeted vide Chargesheet no. AGENT/BC/C-6E/31/03/870 dated 11.7.03. The workman replied to the Chargesheet. He appeared before the Enquiry Officer. The management did not follow the principles of natural justice in conducting the enquiry. He was not afforded reasonable opportunity to prove his innocence. Not a single document was proved as per law. The Enquiry Officer and management representative were highly prejudice and biased against the workman. The workman was dismissed from the service of the company vide Dismissal Order No. PERS/KND/115/1129 dated 07.10.2004. The dismissal of Sri Arjun Turi from service of the company is illegal and unjustified. Punishment is not at all proportionate to the alleged misconduct. The workman belongs to the downtrodden community. He is sitting idle without any job and his whole family is dying without meal without his fault. The workman has prayed that the management of Bahula Colliery under Kenda Area of M/s. Eastern Coalfields Limited be directed to reinstate the him in service with payment of full back wages for the period from the date of his forced idleness with all consequential benefits.

3. The Agent of Bahula Colliery under Kenda Area of M/s. Eastern Coalfields Limited has alleged in his written statement that Sri Arjun Turi ex-U. G. Loader of Bahula Colliery under Kenda Area of M/s. Eastern Coalfields Limited remained absent from his duty unauthorizedly w.e.f. 04.04.2003 onwards without any prior permission or sanctioned leave. As such he was chargesheeted by the management vide Chargesheet No. Agent/BC/C-6E/31/03/870 dated 11.07.2003 as per provisions of standing order under Clause of misconduct no. 26.29 of Certified Standing Order. The reply submitted by the chargesheeted workman was found to be totally unsatisfactory. A domestic enquiry was held into the said Chargesheet by the Enquiry Officer. Ex-workman duly participated in the enquiry proceeding. He was given all reasonable opportunity by the Enquiry Officer to defend his case in accordance with the principles of natural justice. The Enquiry Officer after conclusion of enquiry submitted his Enquiry Report. The charge of misconduct was fully established in the findings submitted by the Enquiry Officer. Copy of enquiry proceeding and findings of Enquiry Officer was issued to the concerned ex-workman by General Manager of Kenda Area of M/s. Eastern Coalfields Limited i.e. the disciplinary authority vide letter No. Pers/KND/115/883 dated 26/31.08.2004 asking him to submit his comment. The disciplinary authority after careful consideration of Chargesheet, Reply to the Chargesheet, Enquiry Proceeding, Enquiry Report and all other connected papers including his past record of attendance was fully satisfied with the same and the ex workman was dismissed from service vide Order of Dismissal No. Pers/KND/115/1129 dated 30.09.2004 / 07.10.2004. The attendance of the dismissed workman: Nil in the year 2001, Nil in the year 2002, and 21 days in the year 2003. The Order of Dismissal is justified and is in accordance with the gravity of misconduct. The workman was not ill. Management followed the principles of natural justice and afforded opportunity to the ex-workman to prove his innocence. Agent of Bahula Colliery under Kenda Area of M/s. Eastern Coalfields Limited has denied that Enquiry Officer and management representative were highly prejudice and biased against concerned workman. The punishment awarded to the ex-workman is justified. The workman is not entitled to any relief.

4. The workman has not filed any documentary evidence.

The workman Sri Arjun Turi has filed affidavit in his oral evidence. He has been cross-examined by the learned advocate of Bahula Colliery under Kenda Area of M/s. Eastern Coalfields Limited. The Agent of Bahula Colliery under Kenda Area of M/s. Eastern Coalfields Limited has filed the following documents :-

(i) Photocopy of the Chargesheet, (ii) Photocopy of the Reply to the Chargesheet, (iii) Photocopy of the Enquiry Proceeding, (iv) Photocopy of the Enquiry Report, (v) Photocopy of the Show Cause on the basis of findings of

Chargesheet enquiry, (vi) Photocopy of the Reply of Show Cause on the basis of findings of Chargesheet enquiry, (vii) Photocopy of the Order of Dismissal vide Ref. No. Pers/KND/115/1129 dated 30.09.2004 / 07.10.2004.

The Agent of Bahula Colliery under Kenda Area of M/s. Eastern Coalfields Limited has not filed affidavit.

5. I have heard arguments of Sri S. K. Pandey, learned union representative appearing on behalf of the workman, Sri Arjun Turi and Sri P. K. Das, learned advocate appearing on behalf of Bahula Colliery under Kenda Area of M/s. Eastern Coalfields Limited
6. Sri P. K. Das, learned advocate of Bahula Colliery under Kenda Area of M/s. Eastern Coalfields Limited has argued that workman is habitual absentee. Habitual absence is serious misconduct. The punishment of dismissal is justified. On the other hand Sri S. K. Pandey, learned union representative has argued that neither there is charge in the Chargesheet against workman for habitual absence nor there is any evidence in enquiry proceeding. He has been absent for merely 3 (Three) months under compelling circumstance of his sickness. It is his first incident. He has never been absent before. He has not been afforded opportunity to defend himself. Domestic enquiry is vitiated, biased and invalid.
7. It is undisputed that Sri Arjun Turi, delinquent workman was in employment as U. G. Loader at Bahula Colliery under Kenda Area of M/s. Eastern Coalfields Limited. He has been dismissed from service after domestic enquiry on charge of unauthorized absence. The workman has challenged the proceeding of domestic enquiry. He has alleged that departmental enquiry is vitiated and biased. He has not been provided opportunity to defend himself. Enquiry has been conducted in violation of principles of natural justice, whereas the Agent of Bahula Colliery under Kenda Area of M/s. Eastern Coalfields Limited has denied that the enquiry has been conducted in violation of principles of natural justice. The workman was afforded all reasonable opportunity. The workman has participated in the enquiry.
8. Unauthorized absence is an act of indiscipline. Whenever there is an unauthorized absence by an employee, two courses are open to the Employer. The first is to condone the unauthorized absence by accepting the explanation and sanctioning leave for the period of the unauthorized absence in which event the misconduct stood condoned. The second is to treat the unauthorized absence as misconduct, hold an enquiry and impose a punishment for the misconduct. An employee who remains unauthorizedly absent for some period, on reporting back to duty, may apply for condonation of absence by offering an explanation for such unauthorized absence and seek grant of leave for that period. If the Employer is satisfied that there was sufficient cause of justification for unauthorized absence, the Employer may condone the act of indiscipline and sanction leave post facto. If leave is so sanctioned and the unauthorized absence is condoned, it will not be opened to the Employer to thereafter initiate disciplinary proceedings in regard to the said misconduct unless it had, while sanctioning leave reserved the right to take disciplinary action in regard to the act of indiscipline. Where the employee who is unauthorizedly absent does not report back to duty and offer any satisfactory explanation or where the explanation offered by the employee is not satisfactory, the Employer will take recourse to disciplinary authority in regard to the unauthorized absence. Such disciplinary proceeding may lead to imposition of punishment.
9. The domestic enquiry commences with service of Chargesheet. Before proceeding with the domestic enquiry against the delinquent workman, the delinquent workman must be informed clearly of the charges labelled against him. If the Employer or the Enquiry Officer intends to rely upon any document or upon any witness or if the charges are based on any document then in such case the disciplinary authority is duty bound to supply the copy of documents and list of witnesses at the time of issuing Chargesheet to the delinquent workman. The Chargesheet should specifically set out all the charges which the workman is required to show cause and should also state all relevant particulars without which he can not defend himself. The object of this requirement is that the delinquent workman must know what he is charged with and have the opportunity to meet the charge and to defend himself by giving a proper explanation after knowing the nature of charge. Otherwise it will amount to his being condemned unheard. If the charges are indefinite or if the copy of documents upon which the charge are based and list of witnesses are not supplied to the delinquent well in advance, then the delinquent workman would not be able to understand the charges and defend himself. Consequently the domestic enquiry will be unfair and vitiated. Not only this delinquent workman must be afforded reasonable time to offer his explanation after service of Chargesheet. If delinquent workman intends to inspect any document maintained by the Employer before submitting his explanation then the Employer or disciplinary authority will insure the inspection of documents and records by delinquent workman before receiving his explanation. If the workman has no opportunity to reply the charges, then the enquiry will not be in conformity with the rules of natural justice.
10. Chargesheet has been issued under Clause 26.29 of Certified Standing Order of M/s. Eastern Coalfields Limited for unauthorized absence without sanctioned leave of certified standing order of M/s. Eastern Coalfields Limited. Procedure for imposition of penalty has been mentioned under Clause 28.1 of Certified Standing Order of Bahula Colliery under Kenda Area of M/s. Eastern Coalfields Limited. Clause 28.1 provides that the employee will be given an opportunity to submit his explanation in writing within a period not less than 3 (Three) days, whereas from perusal of

Chargesheet the Agent of Bahula Colliery under Kenda Area of M/s. Eastern Coalfields Limited has given only 2 (Two) days time for submitting explanation of the delinquent workman Sri Arjun Turi. The Agent of Bahula Colliery under Kenda Area of M/s. Eastern Coalfields Limited has not followed his mandate of Certified Standing Order. In the Chargesheet there is no mention of any witness or any document. The delinquent workman has not been supplied with the copies of documents and list of witnesses. The Hon'ble Apex Court in **Kashinath Dikshita v/s Union of India & Others (1986) 3 SC 229** has held that :-

“ No one facing a departmental enquiry can effectively meet the charges unless the copies of the relevant statement and documents to be used against him are made available to him. In the absence of such copies the concerned employees can not prepare his defence, cross-examine the witness and point out the inconsistencies with a view to show that the allegations are incredible. Observance of natural justice and due opportunity has been held to be an essential ingredient in disciplinary proceedings. ”

11. The Enquiry Officer has recorded the statement of Sri S. R. Tewari, management representative as witness. He has stated that Sri Arjun Turi was absent from duty from 04.04.2003 without any permission and satisfactory cause. As such he has been chargesheeted. Register and Form 'GXH' are produced as exhibit. It is apparent that such copy of register not supplied to the delinquent which is clear violation of principles of natural justice as observed by the Hon'ble Apex Court. As per mines rules Register of Leave has to be maintained under Rule-53 and Register of Daily Attendance has to be maintained under Rule-78. Copy these register has not been produced during enquiry preceding which were very necessary for proving the absence of the delinquent workman Sri Arjun Turi.

12. The Enquiry Officer recorded the statement of Sri S. R. Tewari, management representative on 26.03.2004. The Enquiry Officer has recorded that the delinquent workman Sri Arjun Turi has declined the cross-examination. The workman is a member of Schedule Cast community. He is illiterate as per his affidavit. Being illiterate he might not be aware about his legal rights. Therefore the Enquiry Officer was required to postpone the date and fix a date for cross-examination of the management witness by delinquent workman. Even if the delinquent workman did not avail the opportunity of cross-examination, still he has right to lead defence evidence. But from perusal of enquiry proceeding it is absolutely clear that the opportunity of defence evidence was denied to the workman. The enquiry proceeding commenced on 26.03.2004 and completed on same date on 26.03.2004 without fixing a date for defence evidence of the workman. The Enquiry Officer has clearly violated the principles of natural justice by denying the opportunity to lead defence evidence to the delinquent workman. The departmental proceeding is quasi-judicial proceeding. The burden of proof lies on the department which can be proved by collecting evidence as well as affording all reasonable opportunity to concerned workman. In a departmental proceeding, if the allegation of unauthorized absence from duty is made the disciplinary authority is required to prove that the absence was willful, in the absence of such finding the absence will not amount to misconduct. The Hon'ble Supreme Court in **Dev Dutt v/s Union of India & Others 2008 (117) FLR 1024 SC** has held that:-

“ Natural justice is part of Article 14 of the constitution of India. ”

13. From perusal of material available on record it is apparent that the Enquiry Officer has conducted the departmental enquiry against the delinquent workman in utter violation of principles of natural justice. The Enquiry Officer has not afforded opportunity of cross-examination to the delinquent workman, even the copies of documents and list of witness upon which the Enquiry Officer has relied, has not been supplied to the delinquent workman at the time of issuing Chargesheet. The charge is defective. The delinquent workman has been denied to lead his defence evidence. The workman has been absent for near about 3 (Three) months only. The order of dismissal is a major punishment. The punishment of dismissal without a valid, un-vitiated and un-biased enquiry for mere absence of 3 (Three) months is illegal, unjustified and quite disproportionate to the alleged un-proved misconduct which ought to be set-aside.

14. The workman has alleged in Para-11 of his written statement that he belongs to downtrodden community. He is sitting without any job. His whole family is dying without meal. This fact has not been denied by the Agent of Bahula Colliery under Kenda Area of M/s. Eastern Coalfields Limited in his written statement. The workman has alleged in Para-9 and Para-10 of his affidavit that he is jobless from the period of dismissal. Though he has been cross-examined by the advocate of the Bahula Colliery under Kenda Area of M/s. Eastern Coalfields Limited but his evidence is un-shattered. Neither party to reference has filed document regarding age of delinquent workman Sri Arjun Turi. Sri Arjun Turi has stated his age 43 years in his affidavit. He filed his affidavit in the year 2012. At present his approximate age would be near about 48 years. He had been permanent employee. He has put sufficient service. He is jobless after dismissal. Keeping in view all these facts there is no possibility of getting employment anywhere else.

The Hon'ble Supreme Court in **Jasmer Singh v/s State of Haryana & Another, 2015 (144) F.L.R. 837 SC** has held that :-

“The very idea of restoring an employee to the position which he held before dismissal or removal or termination of service implies that the employee will be put in the same position in which he would have been but for the illegal action taken by the Employer. The injury suffered by a person, who is dismissed or removed or is otherwise terminated from service cannot easily be measured in terms of money. With the passing of an order which has the effect of severing the Employer employee relationship, the latter's source of income gets dried up. Not only the concerned employee, but his entire family suffers grave adversities. They are deprived of the source of sustenance. The children are deprived of nutritious food and all opportunities of education and advancement in life. At times, the family has to borrow from the relatives and other acquaintance to avoid starvation. These sufferings continue till the competent adjudicatory forum decides on the legality of the action taken by the Employer. The reinstatement of such an employee, which is preceded by a finding of the competent judicial/quasi judicial body or Court that the action taken by the Employer is ultra vires the relevant statutory provisions or the principles of natural justice, entitles the employee to claim full back wages. ”

15. In view of discussion above the action of management of Bahula Colliery under Kenda Area of M/s. Eastern Coalfields Limited in dismissing Sri Arjun Turi, Ex-U. G. Loader, U. M. No. 528902 w.e.f. 30.09.2004 is illegal and unjustified. The dismissal order dated Ref. No. Pers/KND/115/1129 dated 30.09.2004 / 07.10.2004 of Sri Arjun Turi is hereby set-aside. The management is directed to reinstate Sri Arjun Turi. The workman Sri Arjun Turi will be entitled to get full back-wages from the date of dismissal i.e. 30.09.2004. Sri Arjun Turi, Ex-U.G. Loader will also be entitled for all consequential service benefits such as increments, promotions, etc. had he not been dismissed from service. Sri Arjun Turi will be imposed of punishment of stoppage of 2 (Two) increments without cumulative effect.

ORDER

Let an “Award” be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 28 अप्रैल, 2017

का.आ. 1198.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 56/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.04.2017 को प्राप्त हुआ था।

[सं. एल-22012/266/2005-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 28th April, 2017

S.O. 1198.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 56/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in Annexure, in the industrial dispute between the management of M/s. Eastern Coalfields Limited and their workmen, received by the Central Government on 26.04.2017.

[No. L-22012/266/2005-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 56 OF 2006

PARTIES :

The management of New Kenda Colliery of M/s. ECL

Vs.

Sri Kanna Kole

REPRESENTATIVES :

For the management : Sri P. K. Das, Learned Advocate

For the union (Workman) : Sri S.K. Pandey, Union Representative

Industry : Coal

State : West Bengal

Dated: 10.04.2017

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter **No. L-22012/266/2005–IR(CM-II)** dated 22.08.2006 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“ Whether the action of the management of New Kenda Colliery under Kenda Area of M/s. Eastern Coalfields Limited in dismissing Mr. Kanna Kole, U.G. Trammer, U.M. No. 097294 w.e.f. 11.12.2002 is legal and justified? If not, to what relief is the workman entitled ? ”

1. Having received the **No. L-22012/266/2005–IR(CM-II)** dated 22.08.2006 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. **56 of 2006** was registered on 18.09.2006. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.

2. The workman Sri Kanna Kole has alleged in his written statement that he was in employment of the company as Trammer at New Kenda Colliery under Kenda Area of M/s. Eastern Coalfields Limited bearing Man No. 097294. He was seriously ill therefore he was absent from duty w.e.f. 19.03.2001. He was Chargesheeted vide Chargesheet No. PERS/NKC/CS/02/940 dated 24.08.2001. He replied to the Chargesheet. The management conducted the departmental enquiry, but did not follow the principles of natural justice. He was not given opportunity to prove his innocence. Neither a single document was proved nor a single witness was examined in the departmental enquiry against the workman. The Enquiry Officer and the management representative were highly prejudice and biased against him. The findings are not based on record. The workman was held only for not informing the management about his sickness and as such the punishment of dismissal is disproportionate to the misconduct. The dismissal of the workman Sri Kanna Kole from services of the company is illegal and unjustified. He belongs to Scheduled Tribe community. He is sitting idle without any job. His whole family is dying without meal without his fault. The workman has prayed that the Tribunal may kindly direct New Kenda Colliery under Kenda Area of M/s. Eastern Coalfields Limited to reinstate the workman Sri Kanna Kole in service with payment of full back wages with all consequential benefits.

3. The Agent of New Kenda Colliery under Kenda Area of M/s. Eastern Coalfields Limited has denied the allegation of the workman in his written statement. The Agent of New Kenda Colliery under Kenda Area of M/s. Eastern Coalfields Limited has alleged in his written statement that ex-workman was absent from duty since 19.03.2001 without any prior permission or leave, therefore the company's work suffered. He was Chargesheet vide Chargesheet no. Personal/NKC/CS/02/947 dated 24.04.2001 under clause 26.29 of the Certified Standing Order. The workman appeared in the enquiry proceeding. The Enquiry Officer conducted the enquiry in compliance of natural justice. The past performance of ex-workman had been unsatisfactory he was present only 202 days in the year 1999, 190 days in the year 2000 and 45 days in the year 2001. After conclusion of enquiry the disciplinary authority issued 2nd Show Cause Notice, but the delinquent failed to submit reply to the said Chargesheet. The punishing authority after perusing the Enquiry Report and connected papers passed the order of dismissal. It is wrong that ex-workman was seriously ill or he is without any job. The enquiry had been conducted in compliance of principles of natural justice. The punishment of dismissal is legal and justified. The action of management is totally justified and the ex-workman is not entitled for reinstatement.

4. Workman has filed documentary evidences :-

(i) Photocopy of the Chargesheet, (ii) Photocopy of the Enquiry Report & Findings, (iii) Photocopy of the Enquiry Proceeding and (iv) Photocopy of the Dismissal Order

The workman Sri Kanna Kole has filed affidavit in his oral evidence. He has been cross-examined by the learned advocate of New Kenda Colliery under Kenda Area of M/s. Eastern Coalfields Limited.

The Management of New Kenda Colliery under Kenda Area of M/s. Eastern Coalfields Limited has not filed any oral or documentary evidence.

5. I have heard the arguments of Sri S. K. Pandey, learned union representative appearing on behalf of the workman Sri Kanna Kole and Sri P. K. Das, learned advocate appearing on behalf of New Kenda Colliery under Kenda Area of M/s. Eastern Coalfields Limited.

6. Sri S. K. Pandey, learned union representative for the workman has argued that so far as previous absence is concerned there is no Chargesheet in this regard. The Enquiry Officer has conducted the enquiry without giving him opportunity to defend himself. No documentary evidence had been filed. The Enquiry Report is biased and vitiated and devoid of principles of natural justice. Punishment of dismissal is too harsh for mere absence of few months. Workman was absent due to illness. On the other hand Sri P. K. Das, learned advocate for the management has argued that the workman was unauthorized absence from duty. The workman participated in the enquiry. The punishment of dismissal is justified.

7. It is not disputed the Sri Kanna Kole was U. G. Trammer at New Kenda Colliery under Kenda Area of M/s. Eastern Coalfields Limited. It is undisputed that delinquent workman Sri Kanna Kole had been dismissed from service, after domestic enquiry on charge of unauthorized absence from duty. The workman has assailed the validity of domestic enquiry. He has alleged that he was not afforded opportunity to prove his innocence. The dismissal is illegal. On the other hand the New Kenda Colliery under Kenda Area of M/s. Eastern Coalfields Limited has alleged that Enquiry Officer has afforded opportunity to the workman to defend himself. The enquiry has been conducted in compliance of principles of natural justice.

8. The copy of Chargesheet has been filed by the workman. The workman has been issued Chargesheet Ref. No. Pers/NKC/Chargesheet/02/940 dated 24.8.2001 for his continuous absence from duty without permission or sufficient cause since 19.03.2001. There is no description of any document or witness in the Chargesheet issued to the workman. The Enquiry Officer has examined Sri P. R. Singh, Personnel Manager as management witness but this witness has not been named in the Chargesheet issued to the workman. The management representative Sri P. R. Singh has relied on the documents Exhibit-1 and Exhibit-2 but is has not been mentioned in the Chargesheet. The domestic enquiry commences with the service of the Chargesheet. The delinquent workman must be informed clearly, precisely and accurately of the charges labelled against him. It is the duty of the employer to the delinquent employee not only the precise nature of the charges but also the documents upon which the charges are based. If a delinquent employee requires to answer a charge imposed upon him, not only he should know the acquisition but also the testimony by which the acquisition is supported. If the Enquiry Officer intends to rely upon any document and any witness then those documents and name of witnesses must be mentioned in the Chargesheet. The copies of those documents which are intended to be relied must be supplied to the delinquent before calling his explanation. If this requirement is not fulfilled it will obviously mean denial of reasonable opportunity to defend the delinquent. The Hon'ble Apex Court in **Meenglas Tea Estate v/s Its Workmen, AIR 1963 SC 1719** has observed that :

“It is elementary principle that a person who requires to answer the charge must not know only the acquisition but also the testimony by which the acquisition is supported.”

9. In **Government of Andhra Pradesh & Others v/s CH. Gandhi 2013 LAB.I.C 1652** Supreme Court has held that :-

“Framing the Chargesheet is the first step taken for holding the enquiry into the allegations on the decision taken to initiate disciplinary proceedings. The charge-sheet is framed on the basis of the allegations made against the Government servant; the charge-sheet is then served on him to enable him to give his explanation; if the explanation is satisfactory, the proceedings are closed, otherwise, an enquiry is held into the charges; if the charges are not proved, the proceedings are closed and the Government Servant exonerated; but if the charges are proved, the penalty follows. Thus, the service of the charge-sheet on the Government servant follows the decision to initiate disciplinary proceedings, and it does not precede or coincide with that decision.”

10. The Enquiry Officer has recorded the statement of management representative Sri R. P. Singh, Personnel Manager on 04.10.2002. The Enquiry Officer has recorded on 04.10.2002 that the chargesheeted the workman denied the cross-examination on the very date 04.10.2002. The statement of delinquent was recorded on 04.10.2002. The delinquent workman has stated on oath filed in his evidence in tribunal that he is member of Schedule Cast community and that he is illiterate. This indicates that being illiterate he was not aware of right regarding cross-examination. The Enquiry Officer is duty bound to inform him or his co-worker to aware about his right of cross-examination or at least, ought to have differed the proceeding and fix another date for his cross-examination. Right of cross-examination is a valuable right under Indian Evidence Act. It can never be curtailed. Under Section 137 of the Evidence Act after examination-in-chief the adverse party will have right of cross-examination. In purview of evidence both examination-in-chief and cross-examination are included. If examination-in-chief is recorded but cross-examination has not been recorded, the evidence will be inadmissible as per Evidence Act. From perusal of Enquiry Report it appears that Sri R.

P. Singh, management representative has relied on Exhibit-1 and Exhibit-2, but neither the copy of these given to the delinquent nor filed on record.

11. Even if the delinquent did not avail the opportunity of cross-examination, still he has right to lead defence evidence. But it appears from perusal of enquiry proceeding that delinquent had never been afforded opportunity to lead defence evidence. Even no date was fixed for his defence evince. The whole enquiry proceeding commenced on 04.10.2002 and completed on 04.10.2002 in one day only without affording opportunity to lead defence evidence to the delinquent workman. The Hon'ble Supreme Court in **Houseless Harijan Employees' Association v/s State of Karnataka & Others (2201) 1 SCC 610** has held that :-

“ Without affording opportunity of being heard no order adverse to a person can be passed. Principles of natural justice require that before taking action against the citizen, he must have a right to be heard. When the statute is salient principles of natural justice can be read into it and unless a statutory provision specifically dispenses with the principles of natural justice hearing must be given before passing any adverse order.”

12. From perusal of material it manifest that after conclusion of enquiry and after submission of Enquiry Report the disciplinary authority passed the dismissal order without issuing 2nd Show Cause Notice to the delinquent workman, Sri Kanna Kole. After conclusion of enquiry proceeding the disciplinary authority concerned was required to supply copy of enquiry proceeding and Enquiry Report to the delinquent and call his explanation. After receiving his explanation and before passing dismissal order the disciplinary authority was required to issue 2nd Show Cause Notice to the delinquent. But 2nd Show Cause Notice has not issued to the workman. **The Hon'ble Supreme Court in Raghubir Singh v/s General Manager Haryana Raodways, 2014 (143) FLR 469** has held that :-

“ Issuance of 2nd Show Cause Notice is mandatory.”

The Coal India Limited by Circular No. CIL-C-5A(VI)/50774/28 dated 12.05.1994 has instructed all authorities concerned to issue 2nd Show Cause Notice before passing dismissal order but the disciplinary authority did not follow the direction of his own institution i.e. Coal India Limited.

13. From perusal of Chargesheet it is apparent that the delinquent has been Chargesheeted for absence of 5 (Five) months and 5 (Five) days. The copy of documents and names of witness had not been supplied to the delinquent at the time of the issuing Chargesheet. The Enquiry Officer has neither afforded opportunity of cross-examination nor defence evidence to the delinquent. The enquiry had been conducted in utter violation of principles of natural justice. Even 2nd Show Cause Notice has not been issued to the delinquent before passing the order of dismissal which is mandatory in law. The order of dismissal is a major punishment the punishment of dismissal of any delinquent for mere absence of near about 5 (five) months without a valid, un-vitiated and proper enquiry is not only disproportionate but quite shocking which must be set-a-side.

14. The workman has pleaded that he is sitting idle without any job. His whole family is dying without meal, without his fault. Though the Agent of New Kenda Colliery under Kenda Area of M/s. Eastern Coalfields Limited has denied in Para-16 of his written statement that the workman is sitting idle without any job and his whole family is dying without meal. But Agent of New Kenda Colliery under Kenda Area of M/s. Eastern Coalfields Limited has not stated that after dismissal where the workman has been working. On the other hand workman has sated in Para-21 of his affidavit that he intends to join the job for his livelihood. He has been crossed by the learned advocate of New Kenda Colliery under Kenda Area of M/s. Eastern Coalfields Limited, but there is no reason to disbelieve the evidence of workman that he is sitting idle without any job

15. The Hon'ble Supreme Court in **Jasmer Singh v/s State of Haryana & Another, 2015 (144) F.L.R. 837 SC** has held that :-

“ The very idea of restoring an employee to the position which he held before dismissal or removal or termination of service implies that the employee will be put in the same position in which he would have been but for the illegal action taken by the employer. The injury suffered by a person, who is dismissed or removed or is otherwise terminated from service cannot easily be measured in terms of money. With the passing of an order which has the effect of severing the employer employee relationship, the latter's source of income gets dried up. Not only the concerned employee, but his entire family suffers grave adversities. They are deprived of the source of sustenance. The children are deprived of nutritious food and all opportunities of education and advancement in life. At times, the family has to borrow from the relatives and other acquaintance to avoid starvation. These sufferings continue till the competent adjudicatory forum decides on the legality of the action taken by the employer. The reinstatement of such an employee, which is preceded by a finding of the competent judicial/quasi judicial body or Court that the action taken by the employer is ultra vires the relevant statutory provisions or the principles of natural justice, entitles the employee to claim full back wages. ”

16. Neither party to the reference has filed any document regarding the age of delinquent workman. Even the workman has not stated his age in his affidavit. His affidavit has been filed in the year 2015. He has prayed in his affidavit that he intends to join the job for his livelihood. It indicates that still he has not reached the age of superannuation. He has been dismissed in the year 2002 still he is jobless. Keeping in view this fact there is no possibility of getting job / alternate employment anywhere else.

17. In view of the discussion above the action of New Kenda Colliery under Kenda Area of M/s. Eastern Coalfields Limited in dismissing Sri Kanna Kole U.G. Trammer, U. M. No. 097294 w.e.f. 11.12.2002 is illegal and unjustified. The dismissal order dated 11.12.2002 is hereby set-aside. The management of New Kenda Colliery under Kenda Area of M/s. Eastern Coalfields Limited is directed to reinstate Sri Kanna Kole. Sri Kanna Kole is entitled to get full back wages from the date of dismissal i.e. 11.12.2002 with all consequential benefits e.g. Promotion, Seniority, increment, etc. Sri Kanna Kole will be imposed a punishment of stoppage of 2 (Two) increments without cumulative effect.

ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 28 अप्रैल, 2017

का.आ. 1199.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 05/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.04.2017 को प्राप्त हुआ था।

[सं. एल-22012/55/2010-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 28th April, 2017

S.O. 1199.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 05/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in Annexure, in the industrial dispute between the management of M/s. Eastern Coalfields Limited and their workmen, received by the Central Government on 26.04.2017.

[No. L-22012/55/2010-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

IN THE COURT OF CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Ref.: Ministry's Order No. L-22012/55/2010-IR (CM-II) dated 21.01.2011
This office Reference No. 05 of 2011 dated 09.02.2011

Management of New Ghusick Colliery under Sripur Area of M/s. ECL

V/s

Sri Umeshwar Das

SETTLEMENT IN LOK ADALAT

Held on 04th April, 2017 at CGIT-cum-LC, Asansol

AWARD

On amicable settlement by both parties the dispute is resolved in the Lok Adalat. The **Form 'H'** containing the terms of agreement of this settlement to be executed by both the parties in due course. Award is passed and signed accordingly.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 28 अप्रैल, 2017

का.आ. 1200.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एसईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 53/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.04.2017 को प्राप्त हुआ था।

[सं. एल-22012/11/2008-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 28th April, 2017

S.O. 1200.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 53/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in Annexure, in the industrial dispute between the management of South Eastern Coalfields Limited and their workmen, received by the Central Government on 26.04.2017.

[No. L-22012/11/2008-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/53/2008**

Shri Karelal,
S/o Rajwa,
At/Vill./PO Harad,
Annuppur (MP)

...Workman

Versus

Chief General Manager,
Jamuna & Kotma Area of SECL,
PO Jamuna,
Annuppur (MP)

...Management

AWARDPassed on this 21st day of March 2017

1. As per letter dated 13-3-08 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/11/2008-IR(CM-II). The dispute under reference relates to:

“Whether the action of the management of SECL in dismissing Shri Karelal w.e.f. 4-6-05 is legal and justified? If not, to what relief the workman entitled to?”

2. After receiving reference, notices were issued to the parties. Workman filed statement of claim at Page 4/1 to 4/2. Case of Ist party is that he was working in Jamuna and Kotma OCM. Workman has given his PF No. 537, personal No. 2407349. That his services were illegally terminated vide letter dated 4-6-05. Ist party workman was suffering from paralysis and remained absent from duty without his medical examination by Medical Board on his request. Chargesheet was issued on 17-2-04. Without any kind of hearing or his medical examination, his service were illegally terminated. His services are terminated illegally showing him unauthorized absent without any evidence. He however contented that enquiry was conducted in violation of principles of natural justice. On the basis of findings of such illegal enquiry, termination of his service is illegal. 2nd party has withheld amount of Gratuity, PF. That on his request, he was not examined by Medical Board to be declared unfit for work. To avoid appointment of dependents on compassionate ground, the notice issued by Ist party was not considered. On such ground, workman prays for his reinstatement with consequential benefits.

3. 2nd party filed Written Statement at Page 11/1 to 11/4 opposing claim of Ist party. 2nd party submits that Ist party was habitual absent. He was given several opportunities to improve but no improvement was in his attendance. Workman was absent from 1-4-02 to 17-2-04. Chargesheet was issued to him on 17-2-04 sent by RPAD. Reply submitted by workman to the chargesheet was found unsatisfactory. Therefore it was decided to conduct enquiry. Shri S.L.Soni appointed as Enquiry Officer, Management representative was also appointed on 6-5-04. The Enquiry Officer issued memorandum dated 29-5-04 enquiry was fixed on 7-6-04, 28-8-04 and various other dates. Workman remained absent on all the dates of hearing. Statement of management representative and management's witness were recorded on 31-1-05. Copy of attendance register was produced in the enquiry. Enquiry Officer submitted his report holding charges against workman proved. After issuing showcause notice dated 9-4-05 and considering representation of workman, punishment of dismissal was imposed on 4-6-05. 2nd party further submits that its employees are provided medical facilities including the family particulars. The treatment in specialized hospital is also made available. That Ist party workman was habitual absentee. Alleged signatures has not been reported to the management. Termination of services of Ist party workman is legal. Reference be answered in favour of management.

4. Workman died during pendency of reference. His LRs are brought on record. As per order dated 19-6-15, enquiry conducted against workman was found legal.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the misconduct alleged against workman is proved from evidence in Enquiry proceedings?	In Affirmative
(ii) Whether the punishment of dismissal imposed against workman is proper and legal?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

6. Point No.1 As per order dated 19-6-15, enquiry is found legal. Question whether charges alleged against workman are proved needs to be decided considering evidence in Enquiry Proceedings. Chargesheet Exhibit M-2(1) issued to workman under clause 26.24 for habitual absence without sufficient cause. Clause 26.30 absence without sufficient leave, clause 26.32 false claim of illness . clause 26.34 remaining absent without proper reasons. As per document Exhibit M-1, reply given to the chargesheet, Ist party workman had admitted his absence on account of illness. He had requested to sent him for proper treatment and medical examination. Workman denied charges alleged against him Exhibit M-2/2 to 2/7 are intimation of memo of enquiry proceedings. In Enquiry Proceeding Exhibit M-3, statement of management's representative Sanjay Singh was recorded. As per his statement, workman was on duty for 85 days in 2002. His attendance in the year 2003-04, 05 was nil. Management's witness Shri R.P.Mishra in his statement says that workman was absent from 14-4-02 , any intimation was not received about his absence. Copy of Form G register is produced in the Enquiry Proceedings. The attendance of deceased workman is shown 85 days in 2002. His attendance in the year 2003-04 , 05 was nil. Enquiry Report is produced at Exhibit M-5 holding workman guilty. Rely Exhibit M-1 workman claimed that he was suffering from paralysis and he requested to be sent for proper treatment is not considered by Enquiry Officer. The reasons are not given why workman was not provided treatment about his illness. The reply given to the chargesheet Exhibit M-1 is silent whether application for leave was submitted or intimation about illness of workman was given to the management. Workman produced zerox copy of medical treatment but Isdt party has not adduced evidence to prove the zerox copy of documents. For absence of such evidence only on the basis of reply to the chargesheet given by workman, it is difficult to uphold that workman was suffering from illness. The evidence of management's witness in enquiry is sufficient to establish charges. Therefore I record my finding in Point No.1 in Affirmative.

7. Point No.2- The charegesheet issued to workman under various clauses of standing order Ist party workman was absent from duty from 14-4-02 till chargesheet issued on 17-2-04 for about 1 year 10 months for long period. The absence of workman was unauthorized. He not submitted application for leave neither sent medical certificate to the management.

8. Learned counsel for management Shri A.K.Shashi on the point relies on ratio held in case between-

Eveready Industries India Ltd Jabalpur and others versus Shri P.S.Parihar and another reported in 2003(3)MPHT.257. Their Lordship held from documentary evidence, it is evident that Respondent No.1 remained

absent for long time. He committed various irregularities, he did not take interest in the work. There was reasonable cause for dismissing his services.

In case between Delhi Transport Corporation versus Sardar Singh reported in 2004(7)SCC-574. Their Lordship dealing with habitual or continuous absence of duty without sanctioned leave for long, prima facie amounts to habitual negligence of duties and lack of interest in work constituting misconduct under standing order. their Lordship also held with negligence in duty.

Considering long period of absence discussed above, punishment of dismissal imposed against workman cannot be said disproportionate. Interference in the punishment of dismissal would not be appropriate. For above reasons, I record my finding in Point No.2 in Affirmative.

9. In the result, award is passed as under:-

- (1) The action of the management of SECL in dismissing Shri Karelal w.e.f. 4-6-05 is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 4 मई, 2017

का.आ. 1201.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 132/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2017 को प्राप्त हुआ था।

[सं. एल-22012/95/1999-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 4th May, 2017

S.O. 1201.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 132/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in Annexure, in the industrial dispute between the management of BCCL and their workmen, received by the Central Government on 04.05.2017.

[No. L-22012/95/1999-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 132 OF 1999

PARTIES :

The management of Khas Chanch Victoria Area of M/s. BCCL

Vs.

Sri Sarojit Majhi & 5 others

REPRESENTATIVES :

For the management : Sri P. K. Das, Learned Advocate

For the union (Workman) : Sri Gora Chand Chatterjee, Learned Advocate

Industry : Coal

State : West Bengal

Dated: 03.04.2017

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter **No. L-22012/95/99–IR(CM-II)** dated 30.07.1999 / 03.08.1999 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“ Whether the action of the management of Khas Kajora Colliery of Chanch Victoria Area of M/s. BCCL in not regularizing/confirming Sri Sarojit Majhi and five others (list enclosed) as Dresser is justified? If not, to what relief the concerned workmen are entitled? ”

1. Having received the Order **No. L-22012/95/99–IR(CM-II)** dated 30.07.1999 / 03.08.1999 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. **132 of 1999** was registered on 18.08.1999. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.

2. 6 (Six) workmen namely Sri Sarojit Majhi , Sri Parag Warah, Sri Manoranjan Mondal, Sri Ananda Mondal, Sri Rajesh Kumar and Sri Jayshree Singh have filed written statement through their union representative Sri Gora Chand Chatterjee. The workmen have stated in their written statement that they are permanent employee of Begunia Colliery of Chanch Victoria Area of M/s. Bharat Coking Coal Limited. These employees have been selected for the post of Dresser (T) after observing the procedure so design by the management. After completion of period of probation they ought to have been confirmed. They have completed their probation period long back, but the management instead of confirming them on their post, allowed them to continue as it is, thereby depriving them from their legal and lawful benefits. The management again issued an Office Order and posted them at C.H.D. for period of 1 (One) year training in the existing Pay Scale, though they have completed near about 5 (Five) years as Dresser (T) and maintaining all three shifts at the company's hospital. Workmen have prayed that tribunal may hold the action of management totally unjustified in not regularizing 6 (six) employees by the management of Begunia Colliery of Chanch Victoria Area of M/s. Bharat Coking Coal Limited as dresser.

3. The General Manager of Begunia Colliery of Chanch Victoria Area of M/s. Bharat Coking Coal Limited has denied the allegation of workmen in his written statement. The management of Begunia Colliery of Chanch Victoria Area of M/s. Bharat Coking Coal Limited has stated in his written statement that as per Cadre Scheme of Para-Medical Staff, formulated by JBCCI in National Coal Wage Agreement-IV vide implementation Instruction No. 28, circulated vide Circular No. CIL/JBCCI-IV-I.I.No. 21/90/22065 dated 01.08.1990 following is the criteria fixed for selecting Dresser in Technical and supervisory Grade-F :

- (i) Minimum Qualification (Educational / Technical) :- Matriculate with 1 (one) year's Training Certificate from the company's hospital / recognized institute / Government Hospital.
- (ii) Mode of Promotion :- Interview / Selection.

Sri Sarojit Majee, Trade Apprentice, Category-I, Sri Ananda Mondal, Timber Mazdoor, Category-II, Sri Manoranjan Mondal, Elect. Helper, Category-II, Sri Rajesh Kumar, General Mazdoor, Category-I, Sri Parag Worah, General Mazdoor, Category-I and Sri Jayshree Singh, Explosives Carrier, Category-II were selected for their deployment in Medical Department as Para-Medical Staff in their existing capacity and were mainly deployed to work as Dresser (T) vide various office order numbers with terms and conditions, mentioned in the respective office orders.

4. The Office order suffers form technical lacunas as the Cadre Scheme clearly specified for their training in the company's hospital / recognized institute / Government Hospital and, that, none of the dispensaries where they were posted, where equipped with training facilities which was very much needed for imparting such training as being a para-medical staff the concerned were supposed to deal with human which requires utmost care while treating them. In absence of such proper training it is not possible for the management to regularize them as Dresser. The above stated 6 (Six) persons were called for an interview by the Headquarter for their selection and training as Dresser (Trainee) vide Order No. BCCL/PA-VI/Regularisation/Dresser(T)/2001/1630 dated 04.05.2001 along with others who were also working in the same capacity at various dispensaries of the Area.

5. Out of these 6 (six) persons of the present reference Sri Sarojit Majee , Sri Rajesh Kumar, Sri Jayshree Singh and Sri Parag Worah were selected along with others who were found eligible for the said post and performed well in the interview for selection vide Order No. BCCL/PA/V/Dresser(T)/2002/1110-60 dated 25/26.03.2002 and were sent to the Central Hospital for 1 (one) year training as per the Cadre Scheme. After completion of the training period they were regularize in Technical and Supervisory Grade – F as Dresser along with others vide Office Order No. BCCL/PA-

5/Regularisation/Dresser(T)2003/2837-2898 dated 10.11.2003 and posted at various dispensaries. Sri Ananda Mondal and Manoranjan Mondal were not found suitable for their selection as Dresser(T). Sri Ananda Mondal, Timber Mazdoor even does not possess required qualification necessary for the same as per the Cadre Scheme. None of the workmen concerned are officiating on the post against permanent vacancy. They were just trainee and their absorption was very much related to their performance and fulfilling the eligibility criteria needed for selection as per Cadre Scheme of the company. In view of above facts and circumstances the action of management in not regularizing / confirming service of Sri Sarojit Majee and 5 (Five) others as Dresser is not illegal or unjustified. The Begunia Colliery of Chanch Victoria Area of M/s. Bharat Coking Coal Limited has prayed that the Tribunal may hold the present dispute as 'No Dispute'.

6. The workmen have file the following documentary evidences :-

(i) Photocopy of the Letter of Agent, Begunia Project dated 15.10.1997, (ii) Photocopy of the Agent, Begunia Project dated 14/15.05.1997, (iii) Photocopy of the Office Order dated 19.11.1997 / 02.12.1997, (iv) Photocopy of the Office Order dated 08.10.1997 / 16.10.1997, (v) Photocopy of the Office Order dated 02.12.1997 / 03.12.1997, (vi) Photocopy of the Office Order dated 15.11.1997 / 17.11.1997, (vii) Photocopy of the Office Order dated 17.10.1997 / 19.10.1997, (viii) Photocopy of the Office Order dated 06.12.1997 / 21.12.1997, (ix) Photocopy of the Office Order dated 05.09.2002 / 07.09.2002, (x) Photocopy of the Office Order dated 19.08.2002, (xi) Photocopy of the Letter of the applicant addressed to the Dy. Chief Personnel Manager, (xii) Photocopy of the Letter of Interview, (xiii) Photocopy of the Office Order dated 30.08.2002

The workmen Sri Ananda Mondal and Sri Manoranjan Mondal have filed affidavit on their oral evidence. Both of the workmen are cross-examined by the learned advocate of the Begunia Colliery of Chanch Victoria Area of M/s. Bharat Coking Coal Limited.

The management of Begunia Colliery of Chanch Victoria Area of M/s. Bharat Coking Coal Limited has not filed any documentary or oral evidence.

7. After service of notice none appeared for workmen for near about 2 (Two) years therefore the reference is reserved for award. The workmen have claimed their regularization on basis of their continuation on post of Dresser (T). Their allegation is that after completion of their probation period they have not been regularized so far. They are still working under their old existing post. Whereas the Begunia Colliery of Chanch Victoria Area of M/s. Bharat Coking Coal Limited has alleged that the candidates / workmen do not possess requisite qualification, therefore they can not be regularized. The Hon'ble Apex Court in **Secretary, State of Karnataka and Other v/s Umadevi and Others, 2006 (109) FLR 826** has held that :-

"If the appointment is illegal there can not be any regularization. Illegal appointments are those where appointments are made without following due procedure or not against sanctioned post. Secondly, the persons appointed do not possess the prescribed minimum qualification."

8. The workmen have not alleged what is their qualification. They have not alleged in their written statement that they possess required qualification for the post of Dresser (T). Even there is no allegation of workmen that there is sanctioned post of Dresser (T). Therefore in view by law propounded by the Hon'ble Apex Court if the workmen do not possess the necessary qualification for the mentioned post they can not be regularized.

9. In view of the discussion above the action of management of Chanch Victoria Area of M/s. Bharat Coking Coal Limited in not regularizing / confirming Sri Sarojit Majhi, Sri Parag Warah, Sri Manoranjan Mondal, Sri Ananda Mondal, Sri Rajesh Kumar and Sri Jayshree Singh is justified. The workmen are not entitled to any relief.

ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 4 मई, 2017

का.आ. 1202.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एमसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 20/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2017 को प्राप्त हुआ था।

[सं. एल-22012/35/2010-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 4th May, 2017

S.O. 1202.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 20/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in Annexure, in the industrial dispute between the management of MCL and their workmen, received by the Central Government on 04.05.2017.

[No. L-22012/35/2010-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Shri B.C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 20/2010

Date of Passing Award – 3rd March, 2017

Between :

1. The General Manager,
Bharatpur Area of MCL, At. Mahendrapur,
Po. N.S. Nagar, Bharatpur Colliery, Dist. Angul.
2. The Project Officer,
Bharatpur OCP of MCL,
Po. N.S. Nagar, Dist. Angul

...1st Party-Managements

(And)

The General Secretary,
Talcher Coal Mines Employees Union,
At. Qr. No. 1B-103, Po. South Balanda,
Dist. Angul

...2nd Party-Union

Appearances :

Shri S.K. Bharadwaj, Senior Manager, Personnel.	...	For the 1 st Party- Management .
Shri Pramod Kr. Mohanty,	...	For the 2 nd Party-Union

AWARD

This award is directed against a reference with the schedule “whether the action of the management of Mahanadi Coal Fields in fixation of wages in respect of Shri P.K. Mohanty, Dumper Operator, Grade-B is legal and justified? What relief the workman concerned is entitled to and from what date?” made by the Government of India in the Ministry of Labour in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (herein-after referred to as Act) vide letter No. L-22012/35/2010 – IR(CM-II), dated 24.11.2010 out of a dispute between the employers in relation to the management of Bharatpur Area of MCL and their workman represented through Talcher Coal Mines Employees Union.

2. The case of the 2nd party-Union as revealed from its statement of claim is that the disputant workman Shri P.K. Mohanty was initially appointed as Dumper Operator, Category-I on 6.11.1999 in the establishment of the Management No. 1 and he was promoted to Operator of different categories. He was Dumper Operator, Grade-C with effect from 6.5.2000 by virtue of his promotion and he was eligible to get promotion to Dumper Operator Grade-D after three years being in Grade-C category in Dumper Operator. However, he was given promotion to Dumper Operator of Grade-B category on 01.04.2003 with an order that financial benefit in the said category would be extended with effect from 2.9.2003. His annual increment in the category of Grade-C fell on 1st May. It is alleged by the disputant-workman that due to his promotion before completion of three years in Grade-C Dumper Operator he was deprived of getting the annual increment that fell on 01.05.2003 and instead his pay was fixed notionally in the promotional post of Grade-B Dumper Operator with effect from 1.4.2003 and financial benefit in the said scale with effect from 2.9.2003. According to him he became looser of getting benefit of one increment through-out his successive service carrier due to such

earlier promotion and fixation of pay in promotional scale on 01.04.2003. Hence, he made a representation to his authority for deferring his promotion and fixation of pay to 06.05.2003 so as to enable him to avail of his annual increment on 01.05.2003. As his appointing authority turned down his request to give effect to the promotion after sanction of his annual increment with effect from 06.05.2003 he raised a dispute before the Asst. Labour Commissioner (Central), Bhubaneswar which has ultimately resulted in the present reference.

3. In its written statement the Management has denied the claim of the disputant workman taking a stand that there was no hard and fast rule to give promotion to the disputant workman after completion of three years in Grade-C category of Dumper Operator. The promotion was recommended by the departmental promotion committee constituted from time to time based on cadre skill provisions of National Coal Wage Agreement, eligibility criteria, qualification and performance. The fixation of pay and subsequent date of annual increment in promotional cadre is governed as per the National Coal Wage Agreement-II. As the pay of disputant workman was fixed in his promotional scale on 01.04.2003 on account of his promotion being effected on that day there was no scope of sanctioning annual increment to him in his old scale on 6.5.2003 and, therefore the disputant workman is not entitled to any annual increment in Grade-C category Dumper Operator on 01.05.2003. His claim being devoid of any merit should be rejected outrightly.

4. On the aforesaid pleadings of the parties two issues as mentioned below have been settled for just and proper adjudication of the dispute.

ISSUES

1. Whether the action of the Management is Mahanadi Coal Fields in fixation of wages in respect of Shri P.K. Mohanty, Dumper Operator, Gr-B is legal and justified?
2. What relief the workman concerned is entitled to and from what date?

5. The disputant workman has examined himself as W.W.-1 and filed copy of letter dated 9.12.1995 issued by the Management of MCL, copy of letter issued by the Management dated 13.9.2013, copy of letter dated 20.2.2007 issued by the Management of MCL and copy of letter dated 2.12.2009 issued by the Management of MCL which are marked as Ext.-1 to 4 to establish his claim, whereas the Management has adduced oral as well as documentary evidence to refute the claim.

6. For the sake of convenience all the issues are dealt and answered simultaneously. The pleadings and evidence of the parties go to show that there is no serious dispute between the parties to the fact that though the disputant-workman was given promotion on 01.04.2003, he was extended financial benefit in his promotional cadre with effect from 2.9.2003. Accordingly his next annual increment was due on 1st April, 2004 as per National Coal Wage Agreement-II. It appears from the contention advanced by the Management that there is no optional provision in Coal Wage Agreement to defer either the promotion or the pay fixation in the promotional cadre at the instance of a workman. As per the stipulations and conditions of the wage agreement the scale of pay in promotional post is to be fixed from the date of giving effect to the promotion and the annual increment becomes due on the completion of one year of such promotion. Taking such stipulation in the agreement the Management is not prepared to accommodate the disputant workman to avail his annual increment in Grade-B Dumper Operator and then opt for his pay fixation in the promotional cadre. On going through the provisions and stipulations in N.C.W.A.-II it is seen that there is nothing in the same to indicate that an employee is debarred to make a representation or to give an option to defer his promotion or pay fixation in the promotional post keeping his financial benefit in view. Law of equity requires that an employee/workman should not be deprived of any financial benefit likely to be conferred to him by his promotion allowing him to opt his pay fixation in higher scale on a different date. Had his promotion was effected after 06.05.2003 soon after his annual increment, he could have drawn one annual increment in his old scale and he would have been benefited in his pay fixation in the promotional scale. Stipulation, if any, in the agreement shall not be construed and applied in detrimental to the interest of the workman more particularly in the matter related to pay fixation. As per the law of equity and natural justice a workman or employee is required to be financially benefited in the event of his promotion to higher grade/cadre and rules and circulars are required to be framed and interpreted to protect such financial interest of the workman/employee. The provisions and the clauses as mentioned in the agreement towards pay fixation in promotional scale and annual increment shall not be construed or interpreted in a manner denying a legitimate claim to the workman provided he is entitled to the same otherwise. In the case at hand the Management should have deferred the pay fixation of the disputant workman to 06.05.2003 in the promotional cadre or at least the effect of promotion to such date on the request of the workman so that the disputant workman could be able to get better financial advantage due to his annual increment being fell on 01.05.2003. In that view of the matter the action of the Management in pay fixation in respect of the workman Shri P.K. Mohanty, Dumper Operator, Grade-B does not appear to be justified and acceptable in the eye of law and equity.

7. For the reasons and discussions made above the pay fixation of Shri P.K. Mohanty in the Grade-B category Dumper Operator should be given effect after allowing him to avail his annual increment on 01.05.2003. It is pertinent

to mention here that his next annual increment shall be effected after completion of one year of his promotion as provided in the National Coal Wage Agreement.

8. The reference is answered accordingly.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 4 मई, 2017

का.आ. 1203.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 55/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2017 को प्राप्त हुआ था।

[सं. एल-22012/257/2005-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 4th May, 2017

S.O. 1203.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 55/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in Annexure, in the industrial dispute between the management of ECL and their workmen, received by the Central Government on 04.05.2017.

[No. L-22012/257/2005-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 55 OF 2006

PARTIES :

The management of Kajora Area of M/s. ECL

Vs.

Sri Raj Kumar Bhuiya

REPRESENTATIVES :

For the management : Sri P. K. Das, Learned Advocate

For the union (Workman) : Sri Rakesh Kumar, Union Representative

Industry : Coal

State : West Bengal

Dated: 06.04.2017

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter **NO. L-22012/257/2005-IR(CM-II)** dated 11.08.2006 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of ECL, Kajora Area in dismissing Shri Raj Kumar Bhuiya from services vide order dated 17.0.2005 is legal and justified? If not, to what relief the workman is entitled ? ”

1. Having received the **NO. L-22012/257/2005-IR(CM-II)** dated 11.08.2006 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. **55 of 2006** was registered on 18.09.2006. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.

2. The workman Sri Rajkumar Bhuian has alleged in his written statement that he was a permanent employee of Khas Kajora Colliery of M/s. Eastern Coalfields Limited as Under Ground Loader bearing U. M. No. 543236. Due to his sickness he was absented from duty from 23.02.2004. Sri Rajkumar Bhuian was sick. He was mentally disturbed, due to this reason he left the colliery without giving information to the wife and other family members. His wife and other family members lodged F.I.R. to this effect at Andal Police Station that Sri Rajkumar Bhuian was missing. The wife of Sri Rajkumar Bhuian informed the management about the missing of Sri Rajkumar Bhuian and submitted a copy of F.I.R. to the management of Khas Kajora Colliery of M/s. Eastern Coalfields Limited. Management decided to hold enquiry. Enquiry Officer sent the information to the workman through Registered Post. After receiving the information about the date of enquiry the wife of Sri Rajkumar Bhuian met the Enquiry Officer and informed that her husband was missing and submitted the copy of F.I.R. lodged by her. The management did not wait and held the enquiry ex-parte against the workman Sri Rajkumar Bhuian. Sri Rajkumar Bhuian was sick. He was mentally disturbed. Therefore he left the colliery without informing the family members. After return and recovery from illness Sri Rajkumar Bhuian requested to the management for allowing him to join the duty. But he was informed that he was already dismissed from duty. The management awarded the punishment of dismissal which is disproportionate. Even the management did not issue 2nd Show-Cause Notice before passing Order of Dismissal and did not follow the direction of Hon'ble Supreme Court. Sri Rajkumar Bhuian belongs to Schedule Cast community. He was not aware about the rules and regulation of the company. Sri Rajkumar Bhuian is not having any other source of income. He and his family members are at the stage of starvation. He challenged the enquiry proceeding. The workman has prayed that he should be allowed to join the duty with full back wages and other consequential benefits.

3. Khas Kajora Colliery of M/s. Eastern Coalfields Limited has not filed written statement.

4. The workman has filed the following documentary evidence :-

(i) Photocopy of the Identity Card of Sri Rajkumar Bhuia, (ii) Photocopy of the Treatment Papers of Central Hospital, Kalla & Area Hospital, (iii) Photocopy of the F.I.R. lodged / Application / Information given to O.C. Andal about Missing of Sri Rajkumar Bhuia by his wife, (iv) Photocopy of the Application submitted to Agent, Khas Kajora by the wife of Sri Rajkumar Bhuia, (v) Photocopy of the Newspaper cutting in which news was published about missing of the workman, (vi) Photocopy of the Application of wife of the workman addressed to the Agent, Khas Kajora Colliery dated 30.07.2004, (vii) Photocopy of the Information given to O.C., Andal Police Station dated 20.02.2005, (viii) Photocopy of the Application of Sri Rajkumar Bhuia requesting to allow him to join duty dated 09.03.2005, (ix) Photocopy of the Letter of the Agent of Khas Kajora Colliery dated 17.03.2005, (x) Photocopy of the Dismissal Letter dated 17.01.2005, (xi) Photocopy of the Application of Sri Rajkumar Bhuia Addressed to the Agent of Khas Kajora Colliery dated 11.08.2005 for providing Enquiry Proceedings, (xii) Photocopy of the letter of the Agent Khas Kajora addressed to Dy. CPM of Kajora Area, (xiii) Photocopy of the Enquiry Proceedings, (xiv) Photocopy of the findings of Enquiry Officer, (xv) Photocopy of the Mercy Petition dated 29.12.2008 and 07.03.2009, (xvi) Photocopy of the Letter of Personnel Manager of Khas Kajora Colliery addressed to Personnel Manager (IC) Kajora Area recommending the reinstatement of Sri Rajkumar Bhuia.

The workman Sri Rajkumar Bhuia has filed affidavit in his oral evidence and he has been cross-examined by the learned advocate of Khas Kajora Colliery of M/s. Eastern Coalfields Limited.

Management of Khas Kajora Colliery of M/s. Eastern Coalfields Limited has not filed any oral or documentary evidence.

5. I have heard arguments of Sri Rakesh Kumar, learned union representative appearing on behalf of the workman Sri Rajkumar Bhuia and Sri P. K. Das, learned advocate appearing on behalf of Khas Kajora Colliery of M/s. Eastern Coalfields Limited.

6. Sri Rakesh Kumar, learned union representative appearing on behalf of the workman Sri Rajkumar Bhuia has argued that Sri Rajkumar Bhuia was admitted in colliery hospital but he was mentally disturbed. He left the home. His wife lodged F.I.R. that Sri Rajkumar Bhuia was missing. The wife of Sri Rajkumar Bhuia informed the management that her husband was missing and requested to postpone the enquiry but the Enquiry Officer conducted the enquiry in absence of Sri Rajkumar Bhuia. The enquiry is vitiated, 2nd Show-Cause Notice has not been issued. Punishment of

dismissal is very harsh. On the other hand Sri P. K. Das, learned advocate appearing on behalf of Khas Kajora Colliery of M/s. Eastern Coalfields Limited has argued that Sri Rajkumar Bhuia absented himself without any information. In domestic enquiry he was held guilty for misconduct. Punishment of dismissal is proportionate.

7. The workman is permanent employee of Khas Kajora Colliery of M/s. Eastern Coalfields Limited. He has been dismissed after domestic enquiry. The workman has challenged the domestic enquiry. The workman has pleaded that he was mentally disturbed. Therefore not only he was absent from duty without information but also missing from home. His wife lodged F.I.R. in Andal Police Station to this effect.

8. Every industry or establishment lays down certain rules and regulation apart from Government rules and regulation for better, effective and efficient working of the industry. For such purpose an industry also constitutes its own rules as per the provisions of labour and industrial laws so as to punish those employees who commits any wrong or misconduct during the course of employment. Absence from duty without information is one of the misconduct mentioned in the Certified Standing Order of M/s. Eastern Coalfields Limited. For any misconduct the disciplinary Authority / Employer can conduct departmental enquiry to prove the guilt of delinquent workman. Disciplinary proceeding will judge the degree and consequences of misconduct committed by the employee. In deciding whether in a particular case, an act of misconduct is serious enough to justify dismissal, the matter needs to be examined in the light of all the surrounding circumstances. In the disciplinary proceeding the concerned authority has to keep in mind the fact that all the necessary procedure has been followed.

9. It is needless to say that it is the responsibility of the Employer / Department to prove the guilt of the delinquent employee. The copy of Chargesheet has not been filed on record by Khas Kajora Colliery of M/s. Eastern Coalfields Limited. Therefore it is not clear for which period and for how many days the delinquent was chargesheeted. After issuance of Chargesheet to the delinquent employee the reasonable opportunity of being heard must be given to the delinquent and this opportunity must be reasonable. Reasonable opportunity means after service of Chargesheet to the delinquent and after receiving of the reply of delinquent employee, the delinquent employee must have notice of proceeding of domestic enquiry. In order to be able to take part in the enquiry the chargesheeted employee must have notice of the Date, Time and Place of the Enquiry. Even if the workman fails to submit his reply to the Chargesheet, the Enquiry Officer is not absolved from his duty to send the notice to the delinquent employee, informing about the date, time and place of enquiry which would enable him to produce his witness and cross-examine the witness produced against him. Non-compliance of this requirement would be violation of rules of natural justice. Fairness demands that the workman should be informed, sufficiently in advance, as to when and where the enquiry is going to be held, so that workman has the opportunity to prepare himself to make his defence at the enquiry and to collect such evidence as he wishes to lead in support of his defence. It will not be proper that the workman should be called on any date without previous intimation and the enquiry should begin straight away.

10. The wife of delinquent workman namely Smt. Tema Devi lodged F.I.R. in Andal Police Station regarding missing of his husband Sri Rajkumar Bhuia. The copy has been filed in record by the delinquent workman. Smt. Tema Devi the wife of delinquent workman informed the Agent of Khas Kajora Colliery of M/s. Eastern Coalfields Limited by letter dated 20.07.2004 and again 30.07.2004 regarding missing of her husband Sri Rajkumar Bhuia. The Enquiry Officer in his enquiry proceeding on 20.08.2004 has recorded that Smt. Tema Devi wife of delinquent has lodged F.I.R. The Enquiry Officer adjourned enquiry proceeding for 20.09.2004 and thereafter on 16.10.2004. The Enquiry Officer on 20.11.2004 proceeded ex-parte against delinquent due to his non-appearance.

11. The Enquiry Officer has mentioned in enquiry proceeding on 20.09.2004 and 20.11.2004 that notice has been sent to delinquent workman at his home address but neither there is copy of notice nor postal receipt on record. Even the Enquiry Officer has not recorded any finding to this effect that on which date notice was served to the delinquent. Without insuring the service of notice to the delinquent the enquiry can not proceed ex-parte. Without service of notice on delinquent ex-parte proceeding is not legal. Though off course, after service of notice, if delinquent workman does not appear or does not participate in the enquiry proceeding, the Enquiry Officer can very well proceed ex-parte against the delinquent workman. But before proceeding ex-parte against the delinquent workman the Enquiry Officer must have insured regarding service of notice to the delinquent. When delinquent workman Sri Rajkumar Bhuia was absent and his wife Smt. Tema Devi lodged an F.I.R. in Andal Police Station to this effect and she informed the concerned authority about missing of her husband then how the Enquiry Officer could presume the service of notice to the delinquent ?

12. The Enquiry Officer after proceeding ex-parte enquiry, after conclusion of management witness, concluded the enquiry proceeding, without fixing a date for defence evidence. Even if the enquiry is ex-parte against delinquent workman he has right to lead defence evidence. The Enquiry Officer must have fixed a date for defence evidence of the delinquent workman before concluding the enquiry proceeding after service of notice. When a departmental enquiry is conducted against the employee it can not be treated as a casual exercise. The enquiry proceeding also can not be conducted with a closed mind. The Enquiry Officer has to be wholly unbiased, impartial and fair. The rules of natural

justice are required to be observed to insure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that an employee is treated fairly in proceeding which may culminate in imposition of major punishment including dismissal from service.

Hon'ble Supreme Court in **State of Uttar Pradesh and Another v/s Sri C. S. Sharma, AIR 1968 page 158** has held that :-

"Omission to give opportunity to an employee to produce his witness and lead evidence in his defence vitiates the proceedings. Dismissal order has serious consequences and should be passed only after complying with the rules of natural justice."

13. After conclusion of enquiry the disciplinary authority is required to supply copy of the Enquiry Officer's report with regard to the guilt or innocence of the employee with regard to the charges labelled against him. From perusal of record it is apparent that the disciplinary authority has not supplied the copy of Enquiry Report to the delinquent after conclusion of the enquiry proceeding.

In **Managing Director, ECIL v/s B. Karunakar & Others AIR 1994 SC 1074** the Hon'ble Apex Court has held that :-

"When the Enquiry Officer is not the disciplinary authority, the delinquent employee has a right to receive a copy of the Enquiry Officer's report before the disciplinary authority arrives at its conclusion with regard to the guilt or innocence of the employee with regard to the charges levelled against him. That right is a part of the employee's right to defend himself against the charges levelled against him. A denial of the Enquiry Officer's report before the disciplinary authority takes its decision on the charges, is a denial of reasonable opportunity to the employee to prove his innocence and is a breach of the principles of natural justice."

14. It is apparent that 2nd Show-Cause Notice has not been issued by the disciplinary authority to the delinquent workman as has been alleged by the workman in his written statement. In view of law propounded Hon'ble Apex Court in **Union of India & Others v/s Mohd. Ramzan Khan, 1990 (61) FLR 376**, 2nd Show-Cause Notice to the proposed punishment before passing the order of termination is mandatory.

15. The departmental enquiry has been conducted in utter violation of principles of natural justice. The Enquiry Officer proceeded ex-parte against workman Sri Rajkumar Bhuia without service of notice. The disciplinary authority did not supply the copy of Enquiry Report to the delinquent workman Sri Rajkumar Bhuia. Even the disciplinary authority has not issued 2nd Show-Cause Notice before passing order of dismissal. The punishment of dismissal without valid and lawful enquiry is vitiated, and it is not only disproportionate to alleged misconduct but also shocking, which ought to be set-aside.

16. The delinquent workman Sri Rajkumar Bhuia has alleged in Para-19 of his written statement that he has not having any source of income. He and his family members are at that stage of starvation. The delinquent workman Sri Rajkumar Bhuia has alleged Para-10 on his affidavit that he has not having any source of income to maintain his family, he is at the stage of starvation. The workman has filed copy of Identity Card issued by Khas Kajora Colliery of M/s. Eastern Coalfields Limited. His date of birth is 27.09.1963. He has entered into service on 19.01.1993. At present his age is approximately 54 years. He has served sufficient period to the M/s. Eastern Coalfields Limited. He is a permanent employee. He is jobless after dismissal. At this stage there is no possibility of getting alternate employment anywhere else. Keeping in view all these facts he is entitled for full back wages. The Hon'ble Supreme Court in **Deepali Gundu Surwase v/s Kranti Junior Adhyapak Mahavidyalaya and Others reported in 2013 LA.B. 4249** has held that :-

"Cases in which the tribunal finds that the employer has acted in gross violation of the statutory provision or the principal of natural justice or is guilty of victimizing the employee or workman, then the concerned Court or Tribunal will be fully justified in directing payment of full back wages. The courts must keep in view that in cases of wrongful / illegal termination of service the wrongdoer is the employer and the sufferer is the employee / workman and there is no justification to give premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee / workman his dues in the form of full back wages."

17. In view of above discussion the action of management of Khas Kajora Colliery of M/s. Eastern Coalfields Limited in dismissing Sri Rajkumar Bhuia is illegal and unjustified. The dismissal order dated 17.01.2005 is hereby set-aside. The management of Kajora Area of M/s. Eastern Coalfields Limited is directed to reinstate Sri Rajkumar Bhuia with full back wages from the period of dismissal i.e. 17.01.2005 with all consequential benefits e.g. Promotion, Seniority, increment, etc. Sri Rajkumar Bhuia will be imposed a punishment of stoppage of 2 (Two) increments without cumulative effect.

ORDER

Let an “Award” be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 4 मई, 2017

का.आ. 1204.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एसईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 62/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2017 को प्राप्त हुआ था।

[सं. एल-22012/65/1998-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 4th May, 2017

S.O. 1204.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 62/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of SECL and their workmen, received by the Central Government on 04.05.2017.

[No. L-22012/65/1998-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/62/99

Jt. General Secretary,
Rashtriya Colliery Workers Federation,
PO Rajnagar Colliery,
Distt. Shahdol (MP)

...Workman/Union

Versus

Sub Area Manager,
Rajnagar RO of SECL,
PO Rajnagar Colliery,
Distt. Shahdol (MP)

...Management

AWARD

Passed on this 7th day of March, 2017

1. As per letter dated 22-1-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/65/98-IR(CM-II). The dispute under reference relates to:

“Whether the action of the management of Rajgamar RO of M/s. SECL in demoting Shri Ramkhilawan from Cat-V to Cat-II is legal and justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party Union submitted statement of claim through its Joint Secretary on behalf of workman Ram Khilawan. The case of Ist party is workman Ramkhilawan S/o Hirwa was working as clipper Category IV in New Rajnagar colliery of Rajnagar RO Sub-area of SECL since 1-9-79. On completion of 10 years of service in same category, he was upgraded to Cat-V under clause 2.11 of NCWA IV w.e.f. 1-7-90 and given basic salary of Rs.57.46. On upgradation of claimant workman from Category IV to V, he should have been given annual increment Rs.1.62 per day from 1-7-90 as per NCWA-IV. Workman was refused annual increment after NCWA-V implemented from 1-7-91, his basic wages should have been Rs. 89.06 per day. Due to exigency of work, claimant Ramkhilawan was asked to work as Welder Category V, he was allowed to work as Welder Category from 1-1-1989. DPC was constituted for promotion of several workers along with welders/ welder

helpers instead of promoting claimant Ramkhilawan as Welder Cat-V, he was demoted to Cat-II from 1-1-1991. That demotion of Shri Ramkhilawan from Cat V to Cat-II without his consent in writing is illegal. That change of Category V to Cat-II without his consent in writing is illegal. That change of Category V to II till 1-5-96.

3. Ist party Union further submits that after changing Ramkhilawan from Cat-V to II and deducting his wages, is in violation of Section 9-A of ID Act and also amounts to unfair labour practice. On such ground, Union prays action of management demoting Ramkhilawan from Cat-V to II is illegal. Wages of category V be allowed with retrospective effect.

4. 2nd party filed Written Statement opposing claim of Ist party at 9/1 to 9/9. 2nd party submits that order of reference is factually incorrect. The order of reference is made without application of mind. The terms of reference are contrary to the facts of the case. Ist party workman was working as Clipper Cat-V, he was re-designated to post of Welder/ Helper Cat-II. Because of proved misconduct in DE claimed, workman was demoted to Welder Helper Category-II post of General Mazdoor Category I. Order of reference pertains to demotion of workman from Cat-V to II is incorrect. Therefore reference deserves to be rejected. Dispute is raised by workman challenging order dated 14-9-96 demoting him from Welder Helper Grade II to the post of General Mazdoor Cat-I. It is further submitted that claimant workman was working as Clipper. On completion of 10 years service, he was allowed SLU benefit and upgraded to Clipper Category V from 1-7-90. As per clause 2.11 of NCWA-IV, basic wages of claimant were fixed Rs.54.22 per day., while claimant workman was working as Clipper Cat-V, he had requested management to allow him to learn the work of welder for his career growth. His request was considered. Workman was allowed to learn work of welder as per order dated 1-1-1989. That for the purpose of promotion, selection committee was constituted. The claimant workman had appeared before selection committee, he was selected to the post of Welder/ Helper Cat-II and appointed on said post as per order dated 28-4-91. The wages of claimant workman on the post of Clipper Cat-V was Rs.57.46 per day. Claimant was regularized to the post of Helper/ Helper Cat-II. His basic pay was fixed Rs.54.04 per day. While claimant was working on the post of welder/ helper Grade II, he was involved in gross misconduct of assault and threatening, abusing to co-worker. Chargesheet was issued to claimant workman on 4-5-96 under clause 26.8 of the certified standing orders. Chargesheet was issued on the basis of complaint received from Mr. Vinod Nigam. Preliminary enquiry was conducted. Report was based on statement of several workers., Ist party workman submitted reply to chargesheet. Reply given by claimant workman was found unsatisfactory. Shri Dwivedi was appointed as Enquiry Officer, N. Dweep was appointed as Management Representative. Management Representative was changed for administrative reasons. Enquiry was conducted on various dates. Statements of management's witnesses were recorded, they were cross-examined. It is reiterated that the charges against workman were found proved. Considering proved charges, punishment of demotion of Category V to II was imposed. There is also incidental pleadings w.r.t. wages fixed for the post of Clipper Category V. 2nd party management had denied that wages of claimant workman were not fixed allowing annual increments. While claimant workman was working in Clipper Category V, he was re-designated to the post of Welder/ Helper Cat-II. Claimant has not raised any objection. Claimant did not express he desire to remain in Clipper Grade V. That there was no change in designation of claimant in violation of Section 9-A of ID Act. For proved misconduct of assaulting, abusing supervisor, punishment of demotion was imposed against workman. Secondly workman was designated as Welder Helper Grade II to General Mazdoor Category I. Said order was not challenged by claimant workman. 2nd party submits that the action taken by management is proper and legal.

5. As per order dated 21-8-15, enquiry conducted against claimant/workman is found vitiated. 2nd party management was permitted to prove misconduct adducing evidence.

6. Considering pleadings on record and orders on preliminary issue, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the charges alleged against workman is proved from evidence in Enquiry proceedings?	In Affirmative
(ii) Whether the action of the management of Rajgamar RO of M/S SECL in demoting Shri Ramkhilawan from Cat-V to Cat-II is legal and justified?	In Affirmative
(iii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

7. Point No.1 As per order dated 21-8-15, enquiry conducted against claimant workman is found vitiated. Chargesheet was issued to claimant Ram Khilawan under Clause 26.18 of certified standing orders pertaining to assault, threatening, abusing co-worker supervisor etc. Management was permitted to prove misconduct adducing evidence. Management filed affidavit of evidence of witness Srinivas Dubey Foreman. The management's witness in his affidavit has stated that he was working in Rajnagar RO since 1981. On 1-5-96 morning, he was proceeding for duty from his quarter. When he reached near Kalimandir, he had seen Vinod Nigam proceeding for duty from his quarter. Ramkhilawan was coming from other side. Witness on his bicycle when he reached cycle store of Vishwakarma, he heard Ramkhilawan saying that he had cut his attendance for Sunday. Ramkhilawan caught color of Vinod Nigam and inflicted 2-4 kicks to Vinod. He had separated Vinod from Ramkhilawan. Ram Khilawan was also giving abuses to Vinod and threatening to kill his whole family. Shrinivas Dubey management witness in his cross says on 1-5-96, he was coming from his quarter. He was 20 feet distance from his place of incident. He heard voice of Ramkhilawan. Ramkhilawan said to Vinod his attendance for Sunday was cut. By that time Vinod came closer, Ramkhilawan had pulled him down. Witness further says he left his bicycle at the place and rushed for protecting Vinod Nigam. His statement was recorded in Enquiry Proceedings. He denied that he deposed false statement against Ram Khilawan as he belongs of Harijan.

8. Management's witness Vinod Kumar filed his affidavit of evidence. He has narrated similar incident on 1-5-96 around 6 AM while he was proceeding for duty from his quarter and reached near bicycle store of Vishwakarma, Ramkhilawan was standing there. Looking to him, Ramkhilawan rushed towards him, he twisted his hand and pulled him down. Ramkhilawan had pressed him by neck and also inflicted blows, abuses given to him. Shri Srinivas Dubey, Avdhesh Vishwakarma, Khagendra Yadav, Ajihummalah separated him from Ram Khilawan. The complaint Exhibit M-7 is proved from his evidence. Vinod in his cross-examination says that incident occurred at 7 AM in May 96. Several persons were present at the time of incident. Including Srinivas Dubey, Avdhesh Vishwakarma, Khagendra Yadav, Ajihummalah. He reported incident to management and police. During Enquiry Proceeding, his report to police was considered. He was not referred for medical examination. He claims ignorance what action was taken by police on his complaint. Police has started investigation under Atrocities Act. He denies that as Ram Khilawan belongs to SC, false report is submitted. Evidence in cross-examination of both witnesses of management is not shattered about their evidence about the incident of assault and abuses. However particulars of abuses are not given in evidence of both witnesses. Charge w.r.t. assault and threatening given by claimant Ram Khilawan, Vinod Nigam is corroborated from evidence of Shri Shrinivas Dubey is sufficient to prove charge of assault and threatening. For above reasons, I record my finding in Point No.1 in Affirmative.

9. Point No.2- The punishment of demotion is imposed against workman. The pleading pertaining to not allowing annual increment are beyond terms of reference. Ist party Union has alleged violation of Section 9-A of ID Act. However the punishment was imposed against claimant Ram Khilawan conducting enquiry. It cannot be matter of violation of Section 9-A of ID Act. Enquiry was found vitiated. Management was permitted to prove misconduct. As per my finding on Point No.1, charge pertaining to assault and threatening by Ram Khilawan to Vinod is established. As punishment of dismissal is not imposed against claimant Ram Khilawan in view of Section 11-A interference in the punishment imposed against workman is not justified. Punishment of demotion imposed against claimant Ram Khilawan is proper and legal. Accordingly I record my finding in Point No.2.

10. In the result, award is passed as under:-

- (1) The the action of the management of Rajgamar RO of M/S SECL in demoting Shri Ramkhilawan from Cat-V to Cat-II is legal and proper.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 4 मई, 2017

का.आ. 1205.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीपीडब्ल्यूडी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, दिल्ली के पंचाट (संदर्भ संख्या 5/08) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2017 को प्राप्त हुआ था।

[सं. एल-42012/138/2005-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 4th May, 2017

S.O. 1205.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 5/08) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Delhi as shown in Annexure, in the industrial dispute between the management of CPWD and their workmen, received by the Central Government on 04.05.2017.

[No. L-42012/138/2005-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT - II, DELHI

Present:- Shri Harbansh Kumar Saxena

ID No. 5/08

Sh. Mohd. Khalil, (Cook) , Now Messenger,
C/o All India CPWD (MRM) Karmachari Sangathan (Reg.),
4823, Balbir Nagar Extension,
Gali No. 13 , Shahdra,
Delhi-110032

...Workman

Versus

The Director General of Works,
CPWD, Nirman Bhawan,
New Delhi-110011

...Management

AWARD

The Central Government in the Ministry of Labour Vide Letter No. 42012/138/2005-IR(CM-II) dated 31.03.2008 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether the demand of the All India CPWD (MRM) Karmachari Sangathan, Delhi for allowing second ACP benefit on completion of 24 years of services w.e.f 11.03.1971 and arrears of pay from 11.03.1971 to 14.05.1986 to Mohd. Khalil is legal and justified? If not, to what relief is the workman entitled?

On 16.05.2008 reference was received in this Tribunal. Which was register as I.D. No. 5/2008 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman filed claim statement on 16.05.2008. Through which he prayed as follows:-

- Arrears of wages for the period from 11.30.1971 to 14.05.1986 in the pay scale of Rs. 260-400 during which he would as Cook on actual basis and pay of the post of COOK which has been revised consequent upon implementation of arbitration award retrospectively.
- Grant of second ACP scheme benefit by counting the service rendered in Nepal under the CPWD.
- Award /relief as may be deemed fit and proper to meet the end of justice.

Against claim statement management filed written statement on 16.12.2008. Where-in management prayed as follows:-

“Prayer clause of the statement of claim are wrong, false and hence denied as the same are neither maintainable nor sustainable in the eyes of law, in the interest of justice.

Workman filed rejoinder on 16.02.2009 . Where-in he re-affirmed the contents of claim statement.

On 5.6.2009 my Ld. Predecessor proceeded on the basis of question of determination mentioned in the schedule of reference. So he fixed 5.08.2009 in reply by workman to the application of management and filing of affidavit of workman.

Subsequently workman along with his Ld. A/R appeared and filed his affidavit along with its copy . Thereafter case was fixed for settlement on 18.0.2013. On 18.02.2013 Ld. A/R Ld. A/R for the workman reported that workman has expired. Wife of deceased workman was substituted in his place.

On 8.09.2014 w/o of deceased workman tendered her affidavit along with certain documents and fixed 19.11.2014 cross-examination. None turn up for cross-examination on 25.02.2015.

Hence right of cross-examination with WW1 has been closed.

Thereafter Ld. A/R for the deceased workman closed the remaining evidence of deceased workman and 9.4.2015 was fixed for management evidence.

On 9.4.2015 management moved an application for setting aside order for closing the right of cross-examination of WW1. Application has not been opposed . Hence Allowed.

Subsequently WW1 was cross-examined and his cross-examination is concluded .

Thereafter Ld.A/R for the workman closed the remaining evidence of workman on 15.12.2015 Sh. Ashok Kr. Aggarwal , MW1 tendered his affidavit and his cross-examination is deferred to 3.2.2016 .

On 3.3.2016 cross-examination of MW1 concluded . Thereafter Ld. A/R for the management on the instruction of MW1 closed the evidence of management and Fixed 13.04.2016 for arguments.

Parties filed written arguments.

Through written arguments wife of Deceased workman stressed that her husband (Deceased workman) has been victimized by department and financial loss has been caused to her husband by C.P.W.D due to which they suffered financial loss of pension and other payable allowances so she is entitled for benefits on the basis order dated 20.7.1988 passed by Hon'ble Supreme Court in Civil Appeal No. 14784/1996. Copy of order is Exht. WW1/5.

She prayed that pay scale of her husband be fixed accordingly to aforesaid Award and arrears of pay shall be paid to her alongwith interest of 18 % per annum since date on which such arrears were paid to other employees.

While on the other hand management filed written arguments.

Through it stated as follows:-

1. That it is submitted that workman Mohd. Khalil was appointed as cook with East West Highways Project, CPWD in Nepal and due to the closure of above project, the staffs engaged were become surplus and they have been transferred and absorbed with the respondent/management and it has been clearly mentioned in the terms of appointment letter that the workman will accept the post as given to him in India and workman accepted the said condition and joined the services of the management on the post of Messenger because there was no post of cook available with the management at that time. It is submitted that it was the Govt's welfare policy under the rehabilitation scheme to absorb the workman after the closure of the project and further the consent was obtained from the deceased workman at that relevant point of time and same is matter of record as well as admitted in the cross-examination of the workman's witness.
2. That the statement of claim of the deceased workman is highly time barred as well as in the fact and circumstances of that the deceased workman gave his consent to the same without any force or undue pressure and on his consent he was absorbed under the rehabilitation scheme and present statement of claim filed without any bonafide cause under the true facts and circumstances.
3. That workman absorbed in the CPWD in India under the employees rehabilitation Scheme for surplus staff. The workman accepted the post of Messenger in the CPWD w.e.f. 15.05.1986 in the scale of Rs. 196-3-20-EB-5-232 service book page No. 16, Part-I and further it the matter of record and same has not been denied by the workman at any point of time.
4. It is submitted that workman had gave his consent and accepted the post of Messenger in the CPWD in India w.e.f 15.05.1986 in the scale of Rs. 196-3-220-EB-3-232 service book page no. 16, Part-I, so the question of change of the post and pay-scale does not arose at all and the same has not been come under the Unfair Labour Practice as the workman was absorbed under the rehabilitation scheme in CPWD, India after the closure of the project in Nepal.
5. That deceased workman got one in –situ benefit and one ACP ; however , under ACP Scheme the incumbent got benefit either Two ACPs or one in-situ and one ACP or two promotions , or one promotion and one ACP and further deceased workman enjoyed all the benefits and never objected to the same at any point of time during his service time and even after the several years of retirement from the service and after a very long period filed the present statement of claim. That the facts mentioned above is also matter of record, admitted fact and same has not been objected by/or on behalf of deceased workman.
6. That deceased workman was received the pay scale of cook for the period from 01.04.1973 to 14.05.1986 and further after joining with the respondent management as messenger he was receiving the pay-scale of messenger as per rules. It is again submitted that workman's consent was been there and only after his consent he was absorbed under the welfare scheme of rehabilitation of Government after the closure of project in Nepal.

7. It is further submitted that the facts and circumstances of the present matter are altogether different from the submissions stated by the workman. In the present matter workman was absorbed with the management in India when the project was closed in Nepal and under the welfare scheme of rehabilitation of the Government for the surplus staff. It is again submitted that it has been clearly mentioned in the appointment letter that the workman will accept the post as given to him/ available at that time in India and the deceased workman accepted the same and joined the services of the management on the post of Messenger because there was no post of cook available with the management at that time under the rehabilitation scheme of the govt. The copy of the service book of the deceased workman is Exht. MW1/2 for the kind perusal of the Hon'ble Tribunal.

8. That the A/R of the deceased workman has no authority to continue with the present statement of claim as there is no authority on record from the legal heirs of the workman after demise of the workman. Further there is no death certificate on record of the deceased workman and the same fact has been admitted by the workman's witness during his cross-examination.

9. That the claim of the workman is not tenable in the eyes of law as all the benefits were enjoyed by the workman under the rehabilitation scheme as per rule for the post acquired by the workman, the present statement of claim is liable to be dismissed.

In the light of contentions and counter contentions mentioned in written arguments of parties I perused the pleading and evidence on record of parties.

Which shows that claim of the deceased workman is not tenable in the eye of law as all the benefits were enjoyed by the workman under the rehabilitation scheme as per rule for the post acquired by the workman.

On the basis of aforesaid discussion I am of considered view that question of determination No. 1 is liable to be decided against deceased workman Mohd. Khalil and in favour of management . Which is accordingly decided.

As question of determination No. 1 has already been decided against deceased workman Mohd. Khalil. So his wife as his L.R. is not entitled to any relief. Question of Determination No. 2 is accordingly decided against workman and in favour of management.

Reference is liable to be decided against workman and in favour of management . Which is accordingly decided and claim statement is dismissed.

Award is accordingly passed .

Dated:-26.10.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 4 मई, 2017

का.आ. 1206.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफसीआई के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 59/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2017 को प्राप्त हुआ था।

[सं. एल-22011/07/2015-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 4th May, 2017

S.O. 1206.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 59/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in Annexure, in the industrial dispute between the management of FCI and their workmen, received by the Central Government on 04.05.2017.

[No. L-22011/07/2015-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT : RAKESH KUMAR, Presiding Officer

I.D. No. 59/2015

Ref. No. L-22011/07/2015-IR (CM-II) dated 14.09.2015

BETWEEN :

Sri Nasir Mohammad
S/o Late Sri Deen Mohammad
R/o C-5A, Vigyanpuri
Mahanagar, Lucknow (U.P.)

AND

The Chief Manager
Food Corporation of India,
District Office, Gomti Nagar
Lucknow- 226010 (U.P.)

The Regional Manager
Food Corporation of India, District Office
Chavni Mandi Road
Banda (U.P.)

AWARD

1. By order No. L-22011/07/2015-IR(CM-II) dated 14.09.2015 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the Sri Nasir Mohammad S/o Late Deen Mohammad and the Chief Manager/Regional Manager, Lucknow/Banda for adjudication.

2. The reference under adjudication is:

“KYA KSHETRYA PRABANDHAN, BHARTIYA KHADYA NIGAM, LUCKNOW BANDA DWARA SRI NASIR MOHMMAD A.G-I(D) KO SEVA NIVRAT KO DANDADESH DATED 28.08.2013 DIYA JANA NIYOCHIT EVAM VAIDH HAI? YADI NAHIN TO KAMGAR KIS RAHAT KO PANE KA HAQDAR?”

3. After receiving the reference letter from the Ministry, the case was registered and notices were issued to both the parties. Opposite Party no.2 sent a reply M-3 alongwith chart M-3/2. None appeared on behalf of the workman. Later on corrigendum C-4 dated 20.11.2015 was received from the Govt. of India, Ministry of Labour informing thereby the changed address of the workman. Therefore fresh notice was sent again through registered post to the workman on the new address but it could not be delivered. The Postman endorsed on the envelope that the addressee does not reside on the given address. Again the case was adjourned to another date.

4. On the request of the Learned AR of the management Sri Ashish Srivastava the case was fixed for hearing on 30.03.2017.

5. Arguments of the Learned AR of the opposite party have been heard at length. Record available before this court has been scanned. It was asserted on behalf of the opposite party, perhaps grievance of the workman might have been redressed out side the court, therefore none made endeavor to represent his case before the court. It is evident from M-3/2 that the concerned workman Mr.Nasir Mohammad has been paid Rs.90,521/ through account payee cheque, in furtherance of the order dated 21.7.2015 passed by RLC(C) Lucknow in PG case No. LKO/36(12)/2014 in the capacity of the Controlling Authority under “Payment of Gratuity Act.1972”.

6. After having heard the learned AR of the opposite party, and perusal of the record, it is inferred that the said penalty order dated 28.8.2013 pertaining to the retirement of the workman, can not be adjudged as illegal or improper. Therefore the workman is not entitled to any relief.

7. Award as above.

LUCKNOW
31.03.2017

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 4 मई, 2017

का.आ. 1207.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार

औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 42/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2017 को प्राप्त हुआ था।

[सं. एल-41012/52/2011-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 4th May, 2017

S.O. 1207.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 42/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure, in the industrial dispute between the management of North Western Railway and their workmen, received by the Central Government on 04.05.2017.

[No. L-41012/52/2011-IR (B-I)]

B. S. BISHT, Section Officer

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर

सी.जी.आई.टी. प्रकरण सं. 42/2012

भरत पाण्डेय, पीठासीन अधिकारी

रेफरेन्स नं. एल-41012/52/2011-आईआर (बी-1) दिनांक 13.02.2012

Shri Govind S/o. Late Shri Bhagchand,
R/o 320 / 33, Behind Shilanyas,
Jawahar Gadugar Colony,
Distt. - Ajmer (Rajasthan)

V/s

1. Dy. Chief Mechanical Engineer (Carriage),
North Western Railway,
Ajmer (Rajasthan)

प्रार्थी की तरफ से : श्री दीपक कुमार – एडवोकेट

अप्रार्थी की तरफ से : श्री पूर्णेन्द्र शर्मा – एडवोकेट

पंचाट

दिनांक : 28. 02. 2017

1. केन्द्रीय सरकार द्वारा औद्योगिक विवाद अधिनियम 1947 की धारा 10 उपधारा 1 खण्ड (घ) के अन्तर्गत दिनांक 13.02.2012 के आदेश से प्रेषित विवाद के आधार पर यह प्रकरण न्यायनिर्णयन हेतु संस्थित है। केन्द्रीय सरकार द्वारा प्रेषित विवाद निम्नवत् है :-

“Whether the demand of Shri Govind S/o Shri Bhagchand, Ex-fitter, for his appointment on Compassionate ground, is legal and justified? to what relief Shri Govind is entitled?”

2. स्टेटमेन्ट ऑफ क्लेम में प्रस्तुत तथ्य के अनुसार संक्षिप्ततः प्रार्थी श्री गोविन्द का कथन है कि उसके पिता स्व. श्री भागचन्द अप्रार्थी के यहां फिटर III कैरिज, अजमेर के पद पर कार्यरत थे।

3. प्रार्थी के पिता स्व. श्री भागचन्द को अप्रार्थी द्वारा अनाधिकृत अनुपस्थिति के झूठे आरोप लगा कर दिनांक 31/3/2008 को सेवा से पृथक कर दिया गया।

4. प्रार्थी के पिता स्व. श्री भागचन्द के विरुद्ध उन पर लगे आरोपों पर विभागीय जांच कार्यवाही भी की गई परन्तु जांच अधिकारी ने स्व. श्री भागचन्द को बचाव का पूर्ण अवसर प्रदान किये बिना ही जांच पूर्ण कर एक तरफा कार्यवाही कर दी।

5. अप्रार्थी ने जांच अधिकारी की रिपोर्ट भी स्व. श्री भागचन्द को नहीं दी तथा उनको उनके विधिक अधिकारों से वंचित रखा, जो कृत्य प्राकृतिक न्याय सिद्धान्तों के विरुद्ध है।

6. अप्रार्थी द्वारा गलत आरोप लगा कर प्रार्थी के पिता स्व. श्री भागचन्द को सेवा से पृथक किया गया है जो विधि विरुद्ध है।

7. प्रार्थी के पिता श्री भागचन्द की मृत्यु दिनांक 2.5.2009 को हो चुकी है।

8. प्रार्थी ने अपने पिता की मृत्यु के बाद अप्रार्थी से मौखिक रूप से कई बार अनुकम्पा पर नौकरी देने की प्रार्थना की परन्तु अप्रार्थी ने इस ओर कोई ध्यान नहीं दिया।
9. प्रार्थी बेरोजगार है तथा उसकी आजीविका का कोई साधन नहीं है व उसकी आर्थिक स्थिति बहुत दयनीय है।
10. प्रार्थी ने अप्रार्थी से कई बार नौकरी पर लेने हेतु निवेदन किया परन्तु अप्रार्थी हमेशा टालमटोल ही करते रहे, इसलिये प्रार्थी को मजबूरन अप्रार्थी के विरुद्ध विधिक कार्यवाही करनी पड़ी, जिसके तहत प्रार्थी ने अपने अभिभाषक से दिनांक 27.5.11 को नोटिस भिजवाया, जो अप्रार्थी को प्राप्त भी हो गया, परन्तु अप्रार्थी द्वारा उक्त नोटिस का कोई संतोषजनक जवाब नहीं दिया गया।
11. प्रार्थी द्वारा अप्रार्थी से कई बार मांग करने पर जब अप्रार्थी ने नौकरी नहीं दी तब मजबूरन प्रार्थी ने सहायक श्रम आयुक्त, केन्द्रीय, अजमेर के समक्ष दिनांक 30.6.11 को निवेदन किया परन्तु अप्रार्थी की हठधर्मिता के कारण समझौता नहीं हो सका इसलिए सहायक श्रम आयुक्त, केन्द्रीय, अजमेर द्वारा विवाद को असफल वार्ता घोषित कर केन्द्रीय सरकार को सूचना भेज गया जो विवाद निर्णय हेतु श्री मान के समक्ष प्रस्तुत है।
12. प्रार्थी बहुत ही गरीब व्यक्ति है तथा बेरोजगार है। उसके पास आय का कोई स्रोत नहीं है, वह भूखे मरने की स्थिति में है। अतः श्रीमान् से निवेदन है प्रार्थी को उसके पिता के स्थान पर अप्रार्थी संस्थान में अनुकम्पा पर नियुक्ति दिलवाये जाने का आदेश न्याय हित में प्रदान किया जाय।
13. विपक्ष ने वादोत्तर प्रस्तुत कर याचिका के प्रस्तर एक के कथन को स्वीकार किया है कि प्रार्थी गोबिन्द के पिता श्री भागचन्द फिटर प्प कैरिज, अजमेर के पद पर कार्यरत थे जिनके टिन नम्बर दिनांक 1.9.99 को बन्द कर दिया गया था तथा उनके सम्बन्ध में अनुभाग अभियन्ता 131 द्वारा अपने पत्र दिनांक 3.6.09 द्वारा रिपोर्ट किया गया था कि श्री भागचन्द दिनांक 27.8.99 से लगातार अनाधिकृत रूपसे अनुपस्थित चल रहे थे।
14. विपक्ष द्वारा श्री भागचन्द के विरुद्ध विभागीय जांच कराया जाना स्वीकार है और इस तथ्य को अस्वीकार किया गया है कि श्री भागचन्द को बचाव का अवसर दिये बिना जांच कार्यवाही पूरी की गयी। यह कहा गया है कि जांच कार्यवाही में याची के उपस्थित होने तथा बचाव के पूर्ण अवसर प्रदान किये गये जिसके सम्बन्ध में पावती वादोत्तर के साथ संलग्न है परन्तु श्री भागचन्द जानकारी के बावजूद उपस्थित नहीं हुए इसलिए नियमानुसार एकपक्षीय जांच कार्यवाही की गयी जो पत्रावली पर आर/2 है। प्रार्थी के इस कथन को झूठा कहा गया है कि उनके पिता पर लगातार अनुपस्थिति का झूठा आरोप लगाकर उन्हें 31.8.08 को सेवा से मुक्त कर दिया गया। यह भी कहा गया है प्रार्थी के पिता के विरुद्ध वादोत्तर के साथ संलग्न आरोप पत्र की प्रति एस.एम.5 (बड़ी शास्ति) दिनांक 2.8.07 जारी की गयी थी क्योंकि वह सेवा से दिनांक 27.8.1999 से लगातार अनुपस्थित चल रहे थे।
15. याचिका के प्रस्तर छ, नौ और दस के कथन को स्वीकार किया गया है। प्रस्तर 8 एवं 11 के कथन को रेल विभाग से सम्बन्धित नहीं बताया गया है।
16. प्रार्थी के पिता के विरुद्ध विभागीय जांच के सम्बन्ध में याचिका के प्रस्तर 5/1 ता 5/13 में क्रमवार की गयी जाँच से सम्बन्धित विवरण दर्ज है जो कि निम्नवत् है :—
 - “5/1 यह कि अनुभाग अभियन्ता/31 विभाग के पत्र दिनांक 23.6.2007 के द्वारा रिपोर्ट की गई कि श्री भागचन्द फिटर III टि.नं. 57939 विभाग कैरिज, अजमेर दिनांक 27.8.1999 से लगातार अनाधिकृत अनुपस्थित चल रहे हैं।
 - 5/2 यह कि सक्षम अधिकारी के आदेशानुसार दिनांक 2.8.07 को कर्मचारी को एस एफ 5 (बड़ी शास्ति) संख्या सीई 308/2007/5/24 जारी की गई।
 - 5/3 यह कि उक्त शास्ति कर्मचारी के घर के पते पर रजिस्टर्ड डाक द्वारा भेजी गई जो कि वापस लौटकर आ गई। जिसे दो कर्मचारियों के सामने विभाग के नोटिस बोर्ड पर चस्पा की गई।
 - 5/4 यह कि सक्षम अधिकारी द्वारा दिनांक 1.9.2007 को श्री के.एल.वर्मा को जांच अधिकारी नियुक्त किया गया।
 - 5/5 यह कि जाँच अधिकारी द्वारा दिनांक 19.9.2007 को श्री भागचन्द को सूचित किया गया कि दिनांक 26.9.2007 को जांच कार्यवाही में उपस्थित हो एवं आप 7 दिन के भीतर अपने बचाव प्रतिनिधि का नाम एवं उनकी लिखित सहमति प्रेषित करें।
 - 5/6 यह कि वरिष्ठ अनुभाग अभियन्ता/31 विभाग ने अपने पत्र दिनांक 25.9.2007 के द्वारा सूचित किया कि कर्मचारी लम्बे समय से अनाधिकृत रूप से अनुपस्थित चल रहा है एवं आज दिनांक तक टिकिट नम्बर बन्द है।
 - 5/7 यह कि जांच अधिकारी ने अपने पत्र दिनांक 9.10.2007 को वरिष्ठ अनुभाग अभियन्ता को सूचित किया कि कर्मचारी के घर का पता प्रेषित करे, यदि कर्मचारी ड्यूटी पर है तो दिनांक 15.10.2007 को जांच कार्यवाही में उपस्थित होने हेतु भेजे।

- 5/8 यह कि उक्त संदर्भ में वरिष्ठ अनुभाग अभियन्ता ने अपने पत्र दिनांक 11.10.2007 के द्वारा सूचित किया कि कर्मचारी आज दिनांक तक अनाधिकृत अनुपस्थित चल रहा है, आपको कर्मचारी के घर का पता प्रेषित है।
- 5/9 यह कि जांच अधिकारी द्वारा दिनांक 25.10.2007 को रजिस्टर्ड ए.डी.द्वारा कर्मचारी के घर के पते पर पत्र प्रेषित किया गया कि आप दिनांक 29.10.07 को जांच कार्यवाही में उपस्थित होवे अन्यथा आपके विरुद्ध एकतरफा कार्यवाही कर दी जायेगी। जिसकी पावती कर्मचारी द्वारा दी गई।
- 5/10 यह कि जांच अधिकारी द्वारा दिनांक 4.12.2007 को कर्मचारी श्री भागचन्द के घर के पते पर पुनः रजिस्टर्ड ए.डी. द्वारा पत्र प्रेषित किया गया कि आपको दिनांक 11.12.2007 को जांच कार्यवाही में उपस्थित हो अन्यथा जांच कार्यवाही एकतरफा कर दी जायेगी, जिसकी पूरी जिम्मेदारी आपकी होगी एवं यह सूचना आपके नोटिस बोर्ड पर दो गवाह से चस्पा करवाकर लौटाया जा रहा है। उक्त पत्र की आर.ए.डी पावती कर्मचारी श्री भागचन्द से प्राप्त की गई एवं दिनांक 11.12.2007 को सभी प्रशासनिक गवाहों के बयान दर्ज किये गये एवं बयानों के आधार पर कर्मचारी पर लगाये गये आरोप की पुष्टि की गई।
- 5/11 यह कि जांच अधिकारी ने अपने पत्र दिनांक 9.1.08 द्वारा कर्मचारी श्री भागचन्द को सूचित किया कि आपको दिनांक 11.12.07 को जांच कार्यवाही में उपस्थित होने हेतु बुलाया गया था, लेकिन आप दिनांक 11.12.2007 को उपस्थित नहीं हुये। आपकी आर.डी.पत्र दिनांक 11.12.2007 को प्राप्त हुई है। आपको एक मौका और दिया जा रहा है आप दिनांक 14.1.2008 को जांच कार्यवाही में उपस्थित हो अगर आप फिर भी नहीं आते है तो आप के विरुद्ध जांच कार्यवाही एकतरफा कर दी जायेगी जिसकी जिम्मेदारी आपकी स्वयं की होगी। उक्त पत्र की प्रति दो गवाहों की उपस्थिति में नोटिस बोर्ड पर भी चस्पा की गई।
- 5/12 यह कि कर्मचारी श्री भागचन्द को जांच कार्यवाही में उपस्थित होने के लिए जांच अधिकारी द्वारा पूर्ण अवसर प्रदान करते हुए जांच कार्यवाही में कर्मचारी के विरुद्ध दिनांक 14.1.08 को अपनी जांच कार्यवाही की रिपोर्ट अनुशासनिक अधिकारी को भेज दी।
- 5/13 यह कि जांच कार्यवाही की अन्तिम रिपोर्ट की एक प्रति कर्मचारी श्री भागचन्द को दिनांक 26.2.08 को रजिस्टर्ड ए.डी. द्वारा भेजी गई जो कि आरोपित कर्मचारी द्वारा प्राप्त की गई। आरोपी कर्मचारी द्वारा जाँच रिपोर्ट के सम्बन्ध में कोई प्रतिवेदन प्रस्तुत नहीं किया गया।
17. आगे याचिका के प्रस्तर 2,4,5,7, के कथन को अस्वीकार कर अतिरिक्त कथन में कहा गया है कि सक्षम अधिकारी ने दिनांक 1.9.2007 को श्री के.ए.वर्मा को जाँच अधिकारी नियुक्त किया तथा जांच अधिकारी ने प्रार्थी के पिता को जांच रिपोर्ट प्रदान की जिसकी पावती दिनांक 4.3.08 को श्री भागचन्द ने दी जो वादोत्तर के साथ संलग्नक आर/3 है। यह कहना गलत है कि उन्हें विधिक अधिकारों से वंचित रखा गया एवं प्राकृतिक न्याय के सिद्धान्त के विरुद्ध कोई कार्य किया गया।
18. याची की अनुकम्पा के आधार पर सेवा में नियुक्ति की मांग का विरोध करते हुए यह कहा गया है कि रेल सेवा से निष्कासित किये गये रेल कर्मचारी के आश्रित को अनुकम्पा के आधार पर नियुक्ति देने का कोई प्राविधान नहीं है एवं इस सम्बन्ध में प्रार्थी को सूचना विपक्षी द्वारा पत्र दिनांक 13.6.11 (संलग्नक आर/4) द्वारा दी जा चुकी है। संलग्नक आर/4 प्रार्थी द्वारा विपक्ष को भेजी गयी नोटिस दिनांक 27.5.11 के जवाब में भेजा गया है। अन्त में प्रार्थना की गयी है कि खर्चा सहित याची की याचिका खारिज की जाय।
19. याचिका के समर्थन में याची की तरफ से याचिका के साथ फिहरिस्त सहित अनुकम्पा पर नियुक्ति हेतु अपने विद्वान अधिवक्ता के माध्यम से भेजी नोटिस, नोटिस का विपक्ष द्वारा भेजे गये जवाब तथा अपने पिता के मृत्यु प्रमाण-पत्र की फोटोप्रति प्रस्तुत की गयी। याची ने साक्ष्य में अपनी शपथ-पत्र प्रस्तुत की है जिस पर याची की प्रतिपरीक्षा की गयी है।
20. विपक्ष की तरफ से याची के पिता के विरुद्ध जांच कार्यवाही से सम्बन्धित अभिलेखों की फोटोप्रतियां प्रस्तुत की गयी है। विपक्ष के मौखिक साक्षी श्री अशोक कुमार शर्मा की शपथपत्र प्रस्तुत है जिनकी याची पक्ष ने प्रतिपरीक्षा की है। पक्षकारों की तरफ से कोई अन्य प्रलेखीय या मौखिक साक्ष्य पत्रावली पर नहीं है।
21. मैंने उभयपक्ष के विद्वान प्रतिनिधिगण की बहस सुनी तथा पत्रावली का सम्यक अवलोकन किया।
22. याची के विद्वान प्रतिनिधि ने बहस की है कि याची की आर्थिक स्थिति ठीक नहीं है तथा उसके पिता की मृत्यु भी हो चुकी है इसलिए याची को अनुकम्पा के आधार पर नियुक्ति दिया जाना न्यायहित में आवश्यक है। यह बहस भी की गयी है याची के पिता को जाँच के दौरान बचाव का समुचित अवसर नहीं दिया गया। इसके विरुद्ध विपक्ष के विद्वान प्रतिनिधि ने बहस की है याची के पिता सेवा के दौरान निरन्तर बिना सूचना सेवासे अनुपस्थित रहने के कारण जाँच के आधार पर दण्डस्वरूप सेवासे मुक्त किये गये थे अतः सेवा से हटाये जाने के कारण किसी आश्रित को अनुकम्पा के आधार पर नियुक्ति नहीं दी जा सकती है।
23. जहाँ तक विभागीय जांच कार्यवाही में याची के पिता को बचाव का समुचित अवसर न दिये जाने का प्रश्न है इस सन्दर्भ में उल्लेखनीय है कि आरोप पत्र के अनुसार प्रार्थी के पिता दिनांक 27.8.99 से निरन्तर अनुपस्थित रहे है एवं जाँच के बाद दिनांक 31.5.2008 को उन्हें सेवा से पृथक किया गया है। आरोपपत्र दिनांक 2.8.07 को निर्गत है जिसमें तामिला के बावजूद उन्होंने आरोप पत्र का जवाब नहीं

प्रस्तुत किया है न उपस्थित हुए है। उनकी मृत्यु दिनांक 2.5.2009 को हुई है, अतः जाँच के विरुद्ध उपस्थित होकर कुछ कहने का अधिकार केवल याची के पिता को था जिसके लिए पर्याप्त अवसर मृतक के पास था और उन्हे यह अधिकार भी था कि जाँच के विरुद्ध जाँच के दौरान या उसके बाद वे कुछ कहते परन्तु उन्होंने कुछ नहीं कहा। याची ने भी याचिका में कोई सारवान बात नहीं कही है कि वो कौन सी बात है जिसके कारण प्राकृतिक न्याय के सिद्धान्त का हनन हुआ है। जानकारी एवं तामिला के बावजूद जब वे जाँच में उपस्थित ही नहीं हुए तो जांच कार्यवाही एकपक्षीय करना अपरिहार्य था। उन्होंने सेवासे मुक्त होने के बाद रेल विभाग से अपना बकाया धनराशि भी प्राप्त किया होगा परन्तु उन्होंने उस समय भी सम्भवतः कोई आपत्ति नहीं प्रस्तुत की।

24. प्रार्थी ने प्रतिपरीक्षा में स्वीकार किया है कि उसके पिता के विरुद्ध लगे आरोप झूठे थे इस तथ्य को साबित करने के लिए उनके पास कोई प्रमाण नहीं है। यह भी स्वीकार किया है कि शपथ पत्र में उसने यह बात अपने मन से लिखवायी है कि उसके पिता पर झूठा आरोप लगाकर उन्हें सेवा से निकाल दिया गया। यह भी कहा है कि उसके पिता के विरुद्ध की गयी विभागीय कार्यवाही के सम्बन्ध में उसे जानकारी नहीं है। याची ने प्रतिपरीक्षा में कहा है कि उसके पिता की मृत्यु की तिथि दिनांक 2.5.2009 तथा यह याचिका प्रस्तुत करने की तिथि दिनांक 31.8.12 के बीच रेल विभाग से उसने कोई पत्राचार किया या नहीं, इस बात की उसे जानकारी नहीं है और उसे इस बात की भी जानकारी नहीं है कि उसके पिता रेल विभाग में दिनांक 27.8.99 से रेल विभाग को कोई सूचना दिये बिना तथा बिना स्वीकृत अवकाश के अनुपस्थित रहे। यह भी कहा है कि उसे विभागीय जाँच दौरान अपने पिता एवं रेल विभाग के बीच पत्राचार की जानकारी नहीं है और इस बात की भी जानकारी नहीं है कि जांच के बाद उसके पिता को रेल सेवा से निकाला गया। उक्त साक्ष्य एवं सम्बन्धित तथ्य एवं परिस्थितियों के आधार पर मैं इस निष्कर्ष पर हूँ कि प्रार्थी अपने पिता के विरुद्ध जांच कार्यवाही एवं आरोप को झूठा साबित करने में असफल है।

25. जहाँ तक प्रार्थी को अनुकम्पा के आधार पर रेल सेवा में नौकरी पर रखे जाने का प्रश्न है स्वयं याची के साक्ष्य से यह प्रकट होता है कि याचिका में झूठे आरोप लगाकर प्रार्थी के पिता को सेवासे निकालने के सम्बन्ध में कथन उसकी कपोल कल्पना है। यँ भी अनुकम्पा के आधार पर नियुक्ति मॉगने का अधिकार केवल ऐसे आश्रित को है जिसके अभिभावक की सेवा के दौरान मृत्यु हुई है। प्रार्थी के मामले में अनुकम्पा के आधार पर नियुक्ति के प्राविधान किसी भी प्रकार आकर्षित नहीं होते हैं। प्रार्थी के पिता के विरुद्ध विभागीय जांच का उनकी मृत्यु से भी कोई सम्बन्ध किसी भी प्रकार स्थापित नहीं होता है।

26. विपक्षी साक्षी की सम्पूर्ण प्रतिपरीक्षा ऐसा कोई सारवान बात नहीं प्रकट होती जिससे प्रार्थी को तार्किक एवं विधिसंगत लाभ प्राप्त हो सके।

27. पक्षकारों के अभिवचनों तथा उनके समर्थन पक्षकारों द्वारा प्रस्तुत प्रलेखीय एवं मौखिक साक्ष्यों के सम्यक अवलोकन तथा उनकी उक्त व्याख्या एवं विश्लेषण के आधार पर मैं इस निष्कर्ष पर हूँ कि अनुकम्पा के आधार पर श्री गोबिन्द पुत्र श्री भागचन्द, भूतपूर्व फिटर की मांग उचित एवं विधिसंगत नहीं है। याची याचित अनुतोष पाने का हकदार नहीं है। याची की याचिका खारिज की जाती है। माननीय मन्त्रालय द्वारा इस मामले में न्यायनिर्णयन हेतु प्रेषित रिफरेंस दिनांकित 13.2.12 का उत्तर तदनुसार दिया जाता है। पंचाट तदनुसार पारित किया जाता है।

28. पंचाट की प्रतिलिपि केन्द्रीय सरकार को औद्योगिक विवाद अधिनियम 1947 की धारा 17 (1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाय।

भरत पाण्डेय, पीठासीन अधिकारी

नई दिल्ली, 4 मई, 2017

का.आ. 1208.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर पूर्व रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 45/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2017 को प्राप्त हुआ था।

[सं. एल-41011/31/2015-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 4th May, 2017

S.O. 1208.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 45/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of North Eastern Railway and their workmen, received by the Central Government on 04.05.2017.

[No. L-41011/31/2015-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW****PRESENT : RAKESH KUMAR, Presiding Officer****I.D. No. 45/2015**

Ref. No. L-41011/31/2015-IR (B-I) dated 15.05.2015

BETWEEN :

Smt. Ram Kumari W/o Late Sri Ram Lakhan
C/o Sri Sanjay Awasthi, Advocate
49, Tilak Nagar
Lucknow-226004 (U.P.)

AND

1. The Divisional Railway Manager
North Eastern Railway, DRM Office
Ashok Marg
Lucknow

AWARD

1 By order No. L-41011/31/2015-IR(B-I) dated 15.05.2015 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Smt Ram Kumari Widow of Late Sri Ram Lakhan and the Divisional Railway Manager, NER, Lucknow for adjudication.

2. The reference under adjudication is:

“KYA PURVOTTAR RAILWAY PRASHAN, LUCKNOW DWARA SMT. RAM KUMARI WIDOW OF LATE SRI RAM LAKHAN, KO MEDICAL SUVIDHA KA BHUGTAN NA DIYA JANA NYAYOCHIT EVAM VAIDH HAI? YADI NAHIN TO VADINI KIS RAHAT KO PANE KA HAQDAR HAI?”

3. After receiving schedule letter from the Ministry, notices through registered posts were sent to both the parties. Learned AR for the workman appeared before the court and sought time for filing claim statement. On behalf of the opposite party Sri Rahul Nigam filed authority M-3. On the request of the workman several dates were given, but later on workman or his representative did not attend the court on any of the dates.

4. Learned AR for the opposite party management pointed out that perhaps the grievances of the petitioner might have got redressed. He requested to adjudicate the matter in favour of the management.

5. Since no claim statement was filed on behalf of the petitioner regarding the schedule referred, neither any evidence was adduced for the same, in view of the submissions made by the Learned AR for the opposite party Sri Rahul Nigam, Advocate, it is inferred that the impugned order referred in the schedule regarding denial of medical facilities to the petitioner, can not be treated as illegal or improper. The petitioner is not entitled to any relief.

6. Award accordingly.

LUCKNOW
27.01. 2017

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 4 मई, 2017

का.आ. 1209.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कोनकन रेलवे कार्पोरेशन लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ संख्या 18/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2017 को प्राप्त हुआ था।

[सं. एल-41012/183/2005-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 4th May, 2017

S.O. 1209.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 18/2006) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the management of Konkan Railway Corporation Ltd. and their workmen, received by the Central Government on 04.05.2017.

[No. L-41012/183/2005-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT : M. V. Deshpande, Presiding Officer

REFERENCE NO.CGIT-2/18 of 2006

**EMPLOYERS IN RELATION TO THE MANAGEMENT OF
KONKAN RAILWAY CORPORATION LIMITED**

The Regional Railway Manager
Konkan Railway Corpn. Ltd. Karwar,
Karnataka – 581 306
Karwar.

AND

THEIR WORKMEN

The General Secretary
Gomantak Mazdoor Sangh
Shetye Sankul, 3rd Floor,
Tisk - Ponda
Goa.

APPEARANCES :

FOR THE EMPLOYER : Mr. A.D. Bhobe, Advocate.

FOR THE WORKMAN : Mr. P. Gaonkar, Representative.

Mumbai, dated the 11th January 2017.

AWARD

1. Government of India, Ministry of Labour & Employment vide its order No. L-41012/183/2005 – IR (B-I) dated 16.03.2006 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this tribunal for adjudication.

“Whether the action of the management of Konkan Railway Corporation Ltd. in not regularizing the employment of 44 workers engaged through contractor in Train Lighting and Air Conditioning Department of Konkan Railway Corporation at PITLIE Coach Care Centre at Madgao, Goa is legal and justified ? If not, to what relief the workers are entitled for ? “

2. After the receipt of the reference, notices were issued to both parties. In response to the notice, second party workmen vide statement of claim Ex.7 contended that Gomantak Mazdoor Sangh is a registered trade union of the workmen employed in various industries in Goa and all the workers in reference are the members of Sangh. It is contended that these 44 workers working in the Train Lighting and Air Conditioning Department of party No.1. Party No.1 is a Government of India undertaking and operates railways. It is then contended that party No.1 has employed thousands of employees and there are several trains running on said route and to carry out the day today electrical maintenance of the said trains, party No.1 has established a maintenance workshop and repairs departments. The Madgaon maintenance workshop is one of the workshop established by party no.1. It is submitted that to carry out the maintenance work, party No.1 has employed several employees. The wages and other facilities of the workers employed by party No.1 are governed by the wages and other facilities applicable to employees of Indian railways in the country. The working of Train Lighting and Air Conditioning in the Indian Railway are being carried out by the permanent workers and they are paid wages and extended other benefits as per the pay commission. The work of Train Lighting and Air Conditioning in Konkan railway is of perennial nature and therefore workers working in the said department ought to be the permanent workers of party No.1

3. According to the party no.2, the work of Train Lighting and Air Conditioning is carried out by the workers whose names are referred in para 9 of the statement of claim and their work is being supervised by the Jr. Engineer and other supervisors of Konkan Railway Corporation Ltd. The duties and the work allotted to workmen are done by the supervisors / Jr. Engineer of party No.1. Two Air Conditioner mechanics are escorting each train and their supervision and job allocation is done by the supervisor of party No.1. The workmen in the reference are having requisite qualification and experience of work. The work of Train Lighting and coach maintenance is necessary and of permanent nature. The work is done through regular workmen in most of the railways in the country.
4. According to party No.2, these workmen are continuously working since 1998 and they are posted on each jobs every day. From the duty allocation it is clear that these numbers of workmen are required as whole time workers to party no.1 to carry out the work of Train Lighting and coach maintenance [electrical].
5. It is submitted that nature of relationship between Konkan Railway Corporation Ltd. and party no.2 workmen were that of employer-employee and only to deprive these workers the benefit of permanency, their wages are paid through a camouflage contractor. The said contract is not only camouflage but also an artificial arrangement on papers as no licence is obtained as required under the contract labour act 1970. The contractors has not maintained the registers as required under the law. The second party workmen are, therefore asking for a declaration that the workers in the reference are regular workers of party no.1 and entitled to all benefits of regular workers under the party no.1 and for order or direction directing the party no.1 to absorb the said workers as permanent workmen of party no.1.
6. First party has resisted the claim by filing written statement Ex.8 contending therein that second party workmen who made the representation through Gomantak Mazdoor Sangh are neither the employees of party no.1 nor does there exists an employee-employer relationship between party no.1 and party no.2. It is contended that party no.2 / concerned workmen are working with M/s. Airserco Pvt. Ltd., J.J. Metal Industries compound, 83, LBS Marg, Bhandup [W], Mumbai. They are employees of said M/s. Airserco Pvt. Ltd. M/s. Airserco Pvt. Ltd. is not a party to the present reference and therefore reference is liable to be dismissed on that count.
7. It is then contended that since there is no employer-employee relationship existing between party No.1 and party no.2 and as party no.2 are not the workmen of party no.1, no industrial dispute is existing in the present case. 44 workers who have made representation through Gomantak Mazdoor Sangh are not employees of party no.1. They are employees of M/s. Airserco Pvt. Ltd. It was therefore the case of employer party no.1 that there was no industrial dispute as no dispute is raised by any of the workmen of party no.1.
8. It is submitted that Konkan Railway Corporation Ltd. is a company with equity participation of Indian Railways, Govt. of Maharashtra, Goa, Karnataka and Kerala formed by BOT concept to construct the 760 kms. long Roha-Thoqur broad gage railway line and are operating the train services. The National Railway Mazdoor Union is a recognized union of Konkan Railway Corporation Ltd. and the said union represents all the employees of Konkan Railway Corporation Ltd. Gomantak Mazdoor Sangh is not recognized trade union of the Konkan Railway Corporation Ltd.
9. It is contended that Konkan Railway Corporation Ltd. as a principal employer has instructed the contractor of M/s. Airserco Pvt. Ltd., Mumbai to strictly comply with the relevant labour laws and rules. The said contractor has confirmed that they have complied with relevant law and rules in force. M/s. Airserco Pvt. Ltd. vide their letter bearing No. ASPC/B/AKCP/2005/455 dated 24.08.2005, addressed to employer party no.1 have confirmed that the minimum wages are being paid to their employees as per the prescribed time schedule. It has also enclosed payment vouchers for the period June & June 2005 along with said letter. Konkan Railway Corporation Ltd. is carrying out only day to day maintenance for identification and unit replacement at the Train Lighting and Air Conditioning Depot at Margaon by awarding the work on annual maintenance contract. The major activities are being done at the railway workshop since Konkan Railway Corporation Ltd. does not have facility for the same. It is thus, denied that the work of the Train Lighting and Air Conditioning in Konkan Railways is of perennial nature and therefore worker in the said depot ought to be permanent workers of party no.1.
10. It is contended that Konkan Railway Corporation Ltd. has its own permanent staff in electrical department for Train Lighting and Air Conditioning. The work awarded by way of annual maintenance contract to M/s. Airserco Pvt. Ltd. is being carried out at the coach care centre. The workmen / party No.2 are the employees of M/s. Airserco Pvt. Ltd. The work of Train Lighting and Air Conditioning depot at Madgaon is of specialized nature involving repairs of hermetically ceiled compressors, brushless alternators, magnetic amplifiers, IGBT controlled invertors, regulators etc. for which expertise as well as infrastructural facilities are not available with Konkan Railway Corporation Ltd. and hence the said work are given on annual maintenance contract. The said annual maintenance contract involves the supply of spare parts, equipment, routine preventive maintenance fault identification, co-ordination for repairs and / overhauling with OEMS / outside agencies, escorting of AC coaches etc. which is comprehensive in nature and not labour contract.

11. It is contended that annual maintenance contract is awarded to M/s. Airserco Pvt. Ltd. who are under obligations to fulfill the contractual liability. The work of 44 workers concerned in the reference is assigned and supervised by M/s. Airserco Pvt. Ltd. The overall quality control and safety check of the contractors work is done by Konkan Railway Corporation Ltd. supervisors in lying with other AMC work. As such there is no employee-employer relationship between the 44 workers and Konkan Railway Corporation Ltd.

12. First party has thus prayed for rejection of the reference.

13. Following are the issues for my consideration. I reproduce the issues along with my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
1	Whether there exists employer-employee relations ?	No. Not proved.
2.	Whether reference is bad for non-joinder of necessary party ?	No
3.	Whether 44 workmen involved in the reference are employees of M/s. Airserco Pvt. Ltd., Mumbai and nothing to do with first party Konkan Railway ?	Yes
4.	Whether employees involved in the reference are entitled to get relief of regularization as a employee of Konkan Railway ?	No
5.	What order	As per final order

REASONS

Issue No. 1 & 3

14. The test which is uniformly applied in order to determine the relationship is the existence of right of control in respect of manner in which the work is to be done. The distinction is also drawn between contract for service and contract of service. In one case master can order or require what is to be done while in another case he can not only order or require what is to be done but how it shall be done. The principle which emerges from the authorities is that prima-facie test for determination of relationship between master and servant is the existence of right in the master to supervise and control the work done by the servant not only in the matter of directing what work the servant is to do but also manner in which he shall do his work. The correct method approach would be to consider whether having regard to the nature of work there was due control and supervision by the employer.

15. So far as facts of the present case are concerned, 44 workers purported to be engaged through contractor. Admittedly the contract agreement is signed by contractor, 2M Engineer and Chief Electrical Engineer vide document at Sr. No.4, page 75 – 86 [Ex.11]. The document at Sr. No.5 are the letters of acceptance of contract signed by the contractor of M/s. Airserco Pvt. Ltd. and Chief Electrical Engineer [Ex.47]. The document at Sr. No. 6 [Ex.48] are the copies of Labour licence issued by the Assistant Labour Commissioner to M/s. Airserco Pvt. Ltd. for annual maintenance of contract work. Ex.48 is the document to show that M/s. Airserco Pvt. Ltd. has sent a letter to Konkan Railway Corporation Ltd. along with list of their clients. The document at Sr. No.8 is a circular issued by Railway Board and document at Ex.18 is a copy of letter received from M/s. Airserco Pvt. Ltd. which they have issued to workers. The said copy bears signature of Shri AKG Pillai, General Manager. The document at Sr. No. B with list Ex.30 is a letter sent by Chief Electrical Engineer to M/s. Airserco Pvt. Ltd. It bears signature of Krishna Lambani. Ex.53 is a copy of letter received from S.K. Raja, worker of M/s. Airserco Pvt. Ltd. Ex.54 is the copy of letter received from M/s. Airserco Pvt. Ltd. Ex.30 is a letter sent by M/s. Airserco Pvt. Ltd. to workers. Ex.56 is a letter sent by Konkan Railway Corporation Ltd. to M/s. Airserco Pvt. Ltd. Ex.60 is the document at Sr. No. M with list. Ex.30, it is a copy of letter sent by 47 workers to M/s. Airserco Pvt. Ltd. Ex.61 is office copy of the letter sent by the Chief Electrical Engineer to M/s. Airserco Pvt. Ltd. All these documents are admitted and exhibited.

16. From these documents it can be seen that there was agreement between M/s. Airserco Pvt. Ltd. and the party No.1 in respect of the contract work. In view of this, it is to be seen whether party no.1 has controlled and supervised over the workmen concerned. In this respect, if we see the evidence of Puti Gaonkar who admits that union is not recognized by Konkan Railway Corporation Ltd. and the employees involved in the reference are not having appointment letter of Konkan Railway Corporation Ltd. He admits that wages of these workers are paid through

contractors. He being the representative of the union claims that the party no.1 has employed workmen but then as seen earlier, it appears that there is no appointment letters issued to these workmen by party no.1.

17. In this respect, if we see the evidence of Shri Sayyed Kazim [Ex.22], he also claims that he is employed by the Konkan Railway Corporation Ltd. on 20.09.1998 as a AC Mechanic in Train Lighting and Air Conditioning Depot at Margaon. In cross-examination he admits that no appointment letter was issued to him by the first party and that contractor was making the payment to him after obtaining his signature on revenue stamp. It appears from his evidence that there is no document to show that he was appointed by party no.1 as the worker in the first party company. Even it is admitted by him that there was no attendance register for him and at the Railway station he was signing the register maintained by the Central Railway at CST Mumbai when he used to reach there.

18. From the above evidence, it is clear that the responsibility casts upon the contractor to make the payment of wages and the contractor used to make payment to them after obtaining their signatures on the revenue stamp. It is in that circumstances it is to be seen whether inspite of appointment of these workmen by the contractor, party no.1 has any control and supervision over the work of these workmen.

19. For it is clear that the work assigned to these workmen was work of Train Lighting and Air Conditioning. From the evidence of witnesses of party no.1, it is clear that Konkan Railway Corporation Ltd. is carrying out only day to day routine maintenance, fault identification and unit replacement at the Train Lighting and Air Conditioning Depot at Margaon by awarding the work of annual maintenance contract. Major activities is being done at railway workshops since Konkan Railway Corporation Ltd. does not have the facility for the same. If this sort of evidence is to be accepted then it can be seen that there were no facilities in respect of work of Train Lighting and Air Conditioning in Konkan Railway Corporation Ltd. Then it cannot be said that the said work of Train Lighting and Air Conditioning is of perennial nature and it was being carried out by the workers of party no.1. I say so because we have documents to show that there was the contract between party no.1 and M/s. Airserco Pvt. Ltd. to carry out the said work of Train Lighting and Air Conditioning and it is comprehensive contract.

20. Even then Learned Counsel for the second party workman submitted that the Junior Engineer of first party and other supervisors were supervising the work. Even the allotment of these duties was done by party no.1 and there is no evidence to show that the contractors were allotting the duties to these workmen. Submission is to the effect that there are regular and permanent workmen supervising the same job of maintenance of coaches done by workmen and therefore the contact is sham and bogus to deprive the workers of the benefits given to regular workmen.

21. However, the in context the evidence that has come on record show that the contractor was making the payment to these concerned workmen. M/s. Airserco Pvt. Ltd. was assigning and supervising the work of the said employer. Even if it is accepted for the sake of arguments that overall quality control, safety check of the contractors work and the management of the work was done by the Konkan Railway Corporation Ltd. which is lying with any other work then also it cannot be said that there was an employee-employer relationship between Konkan Railway Corporation Ltd. and the said workers of M/s. Airserco Pvt. Ltd. Infact, there is no evidence to show that the Junior Engineer of the first party and supervisors were supervising the work and that the allotment of duties to these workmen was done by the first party. From various documents taken on record, it can undoubtedly be said that they were workers / employees of M/s. Airserco Pvt. Ltd. to whom monthly wages and allowances were paid by M/s. Airserco Pvt. Ltd. It is a matter of record that these workers have not undergone any of the recruitment process at Konkan Railway Corporation Ltd. nor applied for the employment against any of the notification of Konkan Railway Corporation Ltd.

22. Learned Counsel for the second party workmen seeks to rely on the decision in the case of Hussaibhai, Calicut v. The Alath Factory, AIR 1978 SC 1410 to submit that where a worker or group of workers / labours to produce the goods or services and these goods and services are for the business of another that other is infact the employer. He has economic control over the workers' subsistence, skill and continued employment. If he for any reason chokes off, the worker is virtually laid off. The presence of intermediate contractors with whom alone the workers have immediate or direct relationship ex contractu is of no consequence when on lifting the veil or looking at the conspectus of factors governing employment, we discern the naked truth though draped in different perfect arrangement that the real employer is the management and not the immediate contractor.

23. He also seeks to rely on the decision in case of General Manager [P&A], HPCL v. General Secretary, General employees association and others 2010 LLR 957 to submit that even though the certain amounts were paid by the contractors, in the real sense ultimately it is a management which pays the amount and the fact shows that contract was sham and bogus and mere comafledge then the workmen is entitled to regularization.

24. In the cited case supra, it is finding of the fact that the notification dated 9.12.1976 was applicable to petitioner company and prohibiting the employment of Central Labour in the works mentioned in schedule annexed thereto with effect from March 1996 would not have employed contract labour for attending the job of sweeping, cleaning, dusting, value operative. Therefore another notification dated 30th January 1976 came to be issued. As such the respondent was

prohibited under the said notification for the employment of contract labour. Even it was finding of the fact, that the work carried out by the management is of permanent and perennial nature for which services of the workmen were required. In the circumstances, it has been observed that the contractor had no role to play as far as workmen are concerned and everything was supervised and controlled by management. In the circumstances, it has been observed that the contract was sham and bogus.

25. Here in the instance case there is no such notification prohibiting the employment of contract labour. There is no sufficient evidence to show that the contract between M/s. Airserco Pvt. Ltd. and the management is sham and bogus and therefore mere supervision by the officers and the management cannot be taken as evidence of direct employment of these contract workers under the principal employer. In the context hand can be laid on the decision in the case of International Airport Authority of India Vs. International Aircargo Worker Union and Anor. 2010 III CLR 140.

26. In the light of above discussion I hold that there exists no employer-employee relationship between first party and second party employees. As such the 44 workmen involved in the reference are the employees of M/s. Airserco Pvt. Ltd. and they have nothing to do with the first party Konkan Railway Corporation Ltd. The above issues are therefore answered accordingly as indicated against each of them in terms of above observations.

Issue No.2

27. Contractor Airserco Pvt. Ltd. is not party to the reference. However, on going through the statement of claim it appears that 44 workmen involved in the reference are claiming themselves as employees of first party management so the burden shifts on them to prove the employer-employee relationship in between them and first party management. The burden has not been properly discharged by second party workmen showing that they are the employees of first party and they were appointed by first party or that they were terminated by the first party. When the contention is taken by the second party workmen that they are employees of first party in that case as seen earlier the burden shifts on them to prove the relationship. In view of that the reference is not bad for non-joinder of necessary party. Issue No.2 is answered accordingly in negative.

Issue No.4 & 5

28. In view of my findings to Issue No.1 & 3, I find that second party workmen cannot seek any relief against the first party. They have sought relief of regularization under the first party and to observe them as permanent workers of the first party. They are not entitled to sought relief when infact second party workmen have not established that they are employed by the first party company. There never existed relationship of employer-employee between first party and second party workmen and therefore they are not entitled to any relief. The reference is liable to be rejected.

ORDER

Reference is rejected as to no order as to costs.

Date: 11.01.2017

M. V. DESHPANDE, Presiding Officer

नई दिल्ली, 4 मई, 2017

का.आ. 1210.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, एर्नाकुलम के पंचाट (संदर्भ संख्या 309/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2017 को प्राप्त हुआ था।

[सं. एल-12012/291/99-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 4th May, 2017

S.O. 1210.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 309/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 04.05.2017.

[No. L-12012/291/99-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ERNAKULAM**Present:** Shri.K. Sasidharan, B.Sc., LLB, Presiding Officer(Friday the 03rd day of February, 2017/14th Magha, 1938)**ID 309/2006****(Formerly ID 73/1999 of the Labour Court, Ernakulam)**

Workman : Shri T. R. Sethumadhavan,
Thanisseery House,
Panjal – P. O.,
Cheruthuruthy – Via,
Thrissur Dist.

By Advs. Shri. K. A. Abraham & Shri. Biju Martin

Management : The Asstt. General Manager,
Region-II, State Bank of India,
Zonal Office,
ERNAKULAM – 682011.

By Adv. Shri. George Thomas Mevada

This case coming up for final hearing on 31.01.2017 and this Tribunal-cum-Labour Court on 03.02.2017 passed the following:

REVISED AWARD

This is a reference under clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (Act 14 of 1947) for adjudication.

2. The dispute referred for adjudication is:

“Whether the action of management of State Bank of India in dismissing the service of Sri. T. R. Sethumadhavan, Clerk, Chowannur branch w.e.f.10.2.98 for certain alleged charges is justified. If not, to what relief the workman is entitled to?”

3. Originally as per Order No.L-12012/291/99/-IR(B-I) dated 11.11.1999 the Ministry of Labour, Government of India referred the matter for adjudication before the Hon’ble Labour Court, Ernakulam and the matter was numbered as ID No.73/1999(C). Subsequently as per order in WP(C) No.1069/2006 dated 24.01.2006 passed by the Hon’ble High Court of Kerala, Ernakulam the matter was transferred to this Court and it was re-numbered as ID 309/2006. The parties entered appearance through counsel and submitted their pleadings. Originally, this Tribunal adjudicated the matter and passed an Award on 22.12.2008. Against which the management preferred WP(C) No.10514 of 2009(H) before the Hon’ble High Court of Kerala, Ernakulam. As per the Judgment dated 16.08.2016 the Hon’ble High Court of Kerala set aside the award passed by this Tribunal and remanded the matter for consideration afresh. Both parties were allowed to produce documents and adduce evidence in support of their respective contentions. Copy of the Judgment in WP(C) No.10514/2009(H) was produced by the counsel for the management before this Tribunal on 05.10.2016. Thereafter notice was issued to the parties to appear before this Tribunal in order to comply the directions in the Judgment in WP(C) No.10514/2009(H) passed by the Hon’ble High Court of Kerala.

4. The contentions in the claim statement filed by the workman in brief are as follows:-

The workman Shri. T. R. Sethumadhavan, while working as clerk in the State Bank of India was dismissed from the service as per order No.Dis/con 284 dated 10.02.1998. The management has alleged five charges against the workman. In the domestic enquiry it was found that three charges alleged against the workman were not proved. The charges stated to be proved against the workman in the enquiry are:

“Charge .1

“Shri. R. V. Siddhi, Account holder of S.B.A/c No.7/2724 had sent Rs.1000/- through his son on 29.5.95 to remit to his S.B.A/c No.7/2724. You were sitting near the “May I help you” counter on that day. After filling up the pay-in-slip, accepted cash of Rs.1000/- and returned the pass book after duly entering and authenticating the credit entry. A similar entry was made by you in the concerned ledger account also. On

3.6.95 the Branch Manager, while scrutinising the account No.7/2724 found the above unauthorized entry. He verified the day books, cashiers receipt scroll, and vouchers and found that no such credit was received on that day. The customer was then interrogated when he produced his pass book on 5.6.95. On scrutiny of the pass book it was found that on 29.5.95, you had made a credit entry of Rs.1000/- in the pass book and also authenticated the entry. When questioned by the Branch Manager on 5.6.95 you admitted to Branch Manager in the presence of the customer Shri.Siddhi that you had accepted Rs.1000/- from the customer's son on 29.5.95 and forgot to remit the amount".

Charge (ii)

"On verification of the pass book of Smt.Lissy Jose, S.B.A/c.4/1933 by the Branch Manager, it was found that you have made a credit entry of Rs.5000/- in the pass book on 15.5.1995, but you have remitted the amount received by you from Smt.Lissy Jose only on 9.6.1995"."

5. The domestic enquiry was conducted in violation of the principles of natural justice, in an unfair and prejudicial manner, without affording fair and reasonable opportunity to the workman to substantiate his contentions. The workman has challenged the enquiry on the aforesaid ground. He has stated that the enquiry is vitiated. In course of enquiry the defacto-complainant was not examined to prove the allegations against the workman. In the course of domestic enquiry the handwriting of the workman was not identified or proved in the documents produced by the management. The documents produced before the enquiry officer were not proved properly. The punishment of dismissal from service imposed on the workman is shockingly disproportionate in relation to the charges levelled against him. The workman has requested to set aside the entire enquiry proceedings and requested to pass an award directing the management to reinstate him in service with back wages, continuity of service and all attendant benefits.

6. The averments in the written statement filed by the management in brief are as follows:-

The workman Shri. T. R. Sethumadhavan while working as a clerk in the State Bank of India, Chowannoor branch has committed gross irregularities. On 29.05.1995 one SB account holder of the branch namely Shri. R. V. Siddhi, Account No.7/2724 sent a sum of ₹1,000/- through his son for remitting the amount to the credit of his account. At that time the workman was sitting near the "May I Help You" counter. The son of the account holder who was not familiar with the procedures for remittance of money; sought assistance from the delinquent. The delinquent filled up the pay-in-slip and obtained signature of the account holder's son and accepted the sum of ₹1,000/- for accounting in the Bank. The workman returned the counterfoil of the pay-in-slip and the passbook of the account holder after making necessary entries evidencing the remittance of the amount on 29.05.1995. The said sum of ₹1,000/- was to be credited to the SB account of the account holder towards processing charges in respect of a housing loan availed by him from the branch. On the date of sanctioning the loan the account holder was not having sufficient money in his account to pay towards the processing charges. He promised the branch Manager that he will remit the amount within a week. It is towards the processing charges in respect of the housing loan, the account holder remitted the sum of ₹1,000/- on 29.05.1995. The branch Manager subsequently verified as to whether the account holder deposited the processing charges as promised by him. At that time it was revealed that the amount has not been deposited and hence the Manager enquired the matter with the account holder/borrower as to why he failed to remit the amount as agreed. At that time the account holder informed the Manager that he had already remitted the amount to the credit of his account and that the staff of the bank made necessary entries in the passbook evidencing the receipt of the amount on 29.05.1995. The branch Manager directed the account holder to reach the branch with the passbook. On verification of the passbook the Manager realized that the statement given by the account holder was correct. Subsequently the branch Manager verified the bank records. On verification it was noticed that the pay-in-slip relating to the deposit of the amount was not seen. The ledger retained in the bank did not show any entry relating to this remittance on that particular date. The cashier's receipt scroll on that particular day also did not reveal any entry relating to the remittance of the amount aforesaid. At that time the bank Manager called the workman in presence of the account holder and enquired the matter. At that time the delinquent workman admitted the receipt of the amount, admitted the making of the entry in the passbook and that he has not accounted the same in the Bank. He informed that he forgot to do so.

7. On finding this irregularity, the branch Manager reported the matter to the controlling authority – Zonal Office, Ernakulam. Shri. C. P. Rajagopal, Manager of PB Division, SBI Town branch was deputed by the Zonal Office to enquire the matter. He along with the branch Manager verified the pay-in-slip, cashier's receipt scroll, Day Book and other documents. In the course of enquiry they noticed three other irregularities as detailed below:

"(i) R.D. Account No.506 relate to a customer by name Mrs.Rosy George. As per the scheme Rs.1000 was to be deposited in a particular day in each month in the said account. On verifying her account, it was seen that there is no deposit in the month of April 1995. All other remittances were correctly and punctually made by the account holder. The account holder was seen by the officer deputed by the Zonal Office along with the Branch Manager. On asking about the non-remittance of the amount for the month of April 1995, she told them that all remittances were made by her in time

and there is no instalment remaining unpaid. She has also shown her Pass Book showing entry made by the delinquent employee to the effect that remittance of the required amount is made in April 1995 but the date of deposit was not entered in the Pass Book.

(ii) The remittance of Rs.5000 made by Smt.Lissy Jose, SB Account holder of Account No.4/1933 on 15/5/1995 was not accounted and the amount was not paid in the counter. In this case also the amount was received by the delinquent employee on the date. This account holder was also met by the officer deputed by Zonal Office along with the Branch Manager and she had told about the deposit of the amount on 15/5/1995 and had also shown her Pass Book showing entry made by the delinquent employee on that particular date.

(iii) A SB Account No.4/2085 relate to another customer by name C. S. Pushpakaran. He had also paid an amount of Rs.1000 to be deposited in his SB Account. This was also not accounted by the delinquent employee and the amount was also not paid in the counter."

8. The officer deputed from the Zonal Office questioned the delinquent workman in the presence of the branch Manager. At that time the delinquent admitted the guilt and his explanation was that he forgot to remit the amount in the cash counter. SB account holder Shri. R. L. Siddhi, Account No.7/2724 submitted a written complaint relating to the irregularities in his bank account. At that time the delinquent tried to remit the amount in the accounts of the respective account holders. In relation to RD Account No.506, the account holder remitted ₹1,000/- in April, 1995 and the delinquent received the sum and he failed to account the same. The said amount was remitted to the account of the account holder after detecting the misappropriation of amount in the account of Shri. R. L. Siddhi. So also a sum of ₹5,000/- was deposited in the account of Smt. Lissy Jose on 09.06.1995.

9. After detecting the misappropriation of amount in relation to the account numbers of Smt.Lissy Jose and Shri. C. S. Pushpakaran, the account holders informed the bank Manager that they have remitted the amount much earlier and the amount was deposited to the credit of their account only on 07.06.1995 and 09.06.1995 respectively.

10. Based on the reports submitted by the branch Manager to the Zonal Office and on the basis of the report by the officer deputed from the Zonal Office, the delinquent was suspended from service w.e.f.13.10.1995. Thereafter a charge sheet was served on him with a statement of allegations explaining the whole instances of misappropriation apart from the charge of unauthorized absence from duty. He has submitted an explanation refuting the charges alleged against him. He has denied the charge of unauthorized absence and stated that he had submitted leave applications on all occasions. The delinquent misappropriated the amount from the customers of the bank as aforesaid and made incorrect entries in the passbook of the concerned customers in order to cover up the misappropriation. He made entries in the passbook of the account holders with fraudulent intention.

11. The management appointed an enquiry officer who conducted the enquiry in presence of the presenting officer after affording fair and reasonable opportunity to the workman to substantiate his contentions. After obtaining report from the enquiry officer the disciplinary authority complied the procedural aspects and passed final order of 'dismissal from service without notice'. The delinquent preferred an appeal before the appellate authority which also ended in dismissal.

12. The management has requested to consider the validity of the enquiry as a preliminary point and sought permission to adduce independent evidence if it is found that the enquiry is vitiated on any of the grounds alleged by the workman.

13. After filing written statement by the management the workman filed rejoinder reiterating the contentions in the claim statement.

14. As per the Judgment in WP(C) No.10514/2009(H) the Hon'ble High Court of Kerala set aside the award dated 22.12.2008 passed by this Tribunal in this case and remanded the matter for consideration afresh. The Hon'ble High Court of Kerala granted permission to the parties to adduce independent evidence to substantiate their respective contentions. After remand order passed by the Hon'ble High Court of Kerala, on behalf of the management MW2 was examined on Commission and Exts.M2 to M28 are the documents marked. The workman has not adduced any oral evidence nor produced documents after remand. Heard both sides.

15. The points arising for consideration are:

- “(i) Whether the management has succeeded in proving the charges levelled against the workman?”**
- “(ii) Whether the defence sought by the workman is true and correct?”**
- “(iii) Whether the punishment imposed by the management is disproportionate in relation to the charges levelled against the workman?”**

(iv) To what relief the workman is entitled?"

16. **Point Nos.(i) & (ii):-** The workman involved in this reference Shri. T. R. Sethumadhavan was employed as a clerk in the management bank. While working at the Chowanoor branch of the management bank certain irregularities were detected and the management bank charge sheeted him for committing the misconduct. As per the charge sheet five charges were levelled against the workman. The management appointed an enquiry officer to conduct an enquiry and submit report. The enquiry officer has found that the charge Nos.1 and 3 in the charge sheet were proved and charge Nos.2, 4 and 5 were not proved. The charges levelled against the workman stated to have been proved in the enquiry are:

"Charge .I

"Shri. R. V. Siddhi, Account holder of S.B.A/c No.7/2724 had sent Rs.1000/- through his son on 29.5.95 to remit to his S.B.A/c No.7/2724. You were sitting near the "May I help you" counter on that day. After filling up the pay-in-slip, accepted cash of Rs.1000/- and returned the pass book after duly entering and authenticating the credit entry. A similar entry was made by you in the concerned ledger account also. On 3.6.95 the Branch Manager, while scrutinising the account No.7/2724 found the above unauthorized entry. He verified the day books, cashiers receipt scroll, and vouchers and found that no such credit was received on that day. The customer was then interrogated when he produced his pass book on 5.6.95. On scrutiny of the pass book it was found that on 29.5.95, you had made a credit entry of Rs.1000/- in the pass book and also authenticated the entry. When questioned by the Branch Manager on 5.6.95 you admitted to Branch Manager in the presence of the customer Shri.Siddhi that you had accepted Rs.1000/- from the customer's son on 29.5.95 and forgot to remit the amount".

Charge (ii)

"On verification of the pass book of Smt.Lissy Jose, S.B.A/c.4/1933 by the Branch Manager, it was found that you have made a credit entry of Rs.5000/- in the pass book on 15.5.1995, but you have remitted the amount received by you from Smt.Lissy Jose only on 9.6.1995".

17. The workman has challenged the enquiry proceedings on the ground it is vitiated for want of fairness, impartiality, denial of natural justice and failure to afford fair and reasonable opportunity. The management has contended that the enquiry conducted by the enquiry officer is just, proper and legal in accordance with the principles of natural justice, affording fair and reasonable opportunity to the workman to substantiate his contentions.

18. While passing the remand order the Hon'ble High Court of Kerala directed this Tribunal to consider the sustainability of the punishment of dismissal if the charges are proved by the management. As already stated, after remand, on behalf of the management, MW2 was examined and Exts.M2 to M28 were marked. The learned counsel for the management submitted that the charges levelled against the workman are proved on the basis of the evidence tendered by MW2 and the documents marked on their behalf. The learned counsel for the workman submitted that the evidence tendered by MW2 will not establish the charges levelled against the workman. In this regard the evidence tendered by MW2 has to be analyzed in detail on the basis of Exts.M2 to M28 documents marked on behalf of the management.

19. At the time of the alleged incident MW2 was the branch Manager of Chowannur branch. He has explained the procedure for remittance followed in the branch while he was working as Manager at the Chowannur branch. He has stated that the Exts.M2 is the complaint submitted by one Shri. R. V. Siddhi to the Assistant General Manager, Zonal Office, Ernakulam. MW2 has stated that at the time when the incident as stated in Ext.M2 document occurred; Shri. T. R. Sethumadhavan was working in the "May I Help you" counter of the branch. MW2 has stated that the son of the de-facto complainant who was not having adequate experience in banking transactions enquired the matter with the delinquent Shri. T. R. Sethumadhavan. At that time the delinquent accepted the passbook and the sum of ₹1,000/- from the son of the de-facto complainant. Thereafter the delinquent made entry in the passbook and returned the same to the son of the complainant. MW2 has stated that on subsequent verification he came to know that the said amount was not actually credited to the account of the complainant. At that time MW2 contacted the complainant over phone and the complainant informed that he had already remitted the amount and the remittance is recorded in the passbook. MW2 has stated that he requested the complainant to reach the branch of the management bank. Then the complainant along with his son reached the branch of the management bank. They brought the passbook also. MW2 enquired the complainant and his son as to whom they paid the amount and at that time the son of the complainant identified the workman Shri. T. R. Sethumadhavan. MW2 has stated that immediately he called the workman and enquired the matter and at that time the workman admitted the receipt of the sum of ₹1,000/-. He also informed that he forgot to deposit the amount and promised that he will pay the amount immediately.

20. MW2 has stated that Ext.M3 is the passbook issued to Shri. R. V. Siddhi, the complainant, in which there is an entry on 29.05.1995 evidencing the remittance of a sum of ₹1,000/-. Ext.M4 is copy of the ledger sheet pertaining to SB account No.7/2724 in the name of Shri. R. V. Siddhi. MW2 has stated that in the ledger sheet there is an entry by the delinquent workman to the effect that he received the sum of ₹1,000/- on 29.05.1995. MW2 has stated that Ext.M5 is the cashier's receipt scroll for 29.05.1995 retained in the bank. MW2 has stated that in Ext.M5 document there is no entry relating the remittance of ₹1,000/- on 29.05.1995 as noted in Ext.M4 ledger sheet. Ext.M6 is the duplicate copy of the charge sheet issued to the workman from the office of the Assistant General Manager of the management bank. MW2 has stated that Ext.M7 is the reply to the charge sheet submitted by the delinquent workman. He has stated that Ext.M8 is copy of the show cause notice dated 21.06.1995 issued by the Assistant General Manager to the workman. Ext.M9 is the reply submitted by the workman to Ext.M8 show cause notice. MW2 has stated that Ext.M10 is the proposed punishment order dated 06.12.1997 for "dismissal without notice" issued to the delinquent workman. Ext.M11 is the final punishment order issued to the delinquent workman after considering his submissions. Ext.M12 is the order passed by the appellate authority in the appeal submitted by the delinquent workman.

21. MW2 has stated that as per Ext.M6 document, apart from the complaint of Shri. R. V. Siddhi, there were allegations regarding non-remittance of amount in RD A/c No.506 in the name of Mrs.Rosy George. It is stated that in the passbook issued to Mrs.Rosy George there is an entry regarding remittance of a sum of ₹1,000/- in April, 1995, whereas the said amount was actually credited in the account of the bank only on 07.06.1995. MW2 has stated that Ext.M13 is the passbook in respect of RD A/c No.506 in the name of Mrs.Rosy George. MW2 has further stated that Ext.M14 is the cash voucher for payment of ₹1,000/- on 07.06.1995 to RD account No.506. He has further stated that the said cash voucher was prepared by the delinquent workman. Ext.M15 is the cashier's receipt scroll for 07.06.1995, in which it is noted that in relation to RD account No.506, there was remittance of a sum of ₹1,000/- in the name of Mrs.Rosy George. It is to be noted that in Ext.M13 passbook, in the name of Mrs.Rosy George, there is no corresponding entry on 07.06.1995.

22. MW2 has stated that the next charge against the delinquent workman is relating to the remittance entry in SB account No.4/1933 in the name of Smt.Lissy Jose. He has stated that as per the passbook in the name of Shri. M. P. Jose and Smt.Lissy Jose, which is marked as Ext.M18; there is an entry on 15.05.1995 evidencing the remittance of a sum of ₹5,000/-. MW2 has stated that the said sum of ₹5,000/- was actually credited to the SB account of Smt.Lissy Jose only on 09.06.1995. MW2 has stated that Ext.M16 is the ledger sheet retained in the bank relating to the SB account No.4/1933. MW2 has stated that the entry prior to 09.06.1995 as noted in Ext.M16 ledger sheet is dated 05.01.1995 and as per that entry a sum of ₹198.60 was credited towards interest in that account. MW2 has stated that Ext.M17 is the cash receipt voucher dated 09.06.1995 evidencing the remittance of a sum of ₹5,000/- to the credit of SB A/c No.4/1933 in the name of Smt.Lissy Jose. MW2 has stated that Ext.M17 was prepared by the delinquent workman. Ext.M18 is the duplicate passbook in respect of Account No.4/1933 in the joint names of Shri. M. P. Jose and Smt. M. G. Lissy. MW2 has stated in Ext.M18 document an entry is made on 15.05.1995 evidencing the remittance of a sum of ₹5,000/-. He has stated that in Ext.M19 cashier's receipt scroll dated 09.06.1995 there is an entry evidencing the remittance of ₹5,000/- towards the account No.4/1933.

23. MW2 has stated that the 04th paragraph in Ext.M6 document is relating to the transactions relating to the bank account in the name Shri. C. S. Pushpakaran, SB a/c No.4/2085. Ext.M20 is the ledger sheet pertaining to SB a/c No.4/2085. MW2 has stated that even though the workman received the sum of ₹1,000/- from Shri. C. S. Pushpakaran, prior to 07.06.1995, he remitted the amount to the credit of the SB account of Shri. C.S. Pushpakaran only on 07.06.1995. MW2 has stated that Ext.M21(a) is the credit voucher relating to the remittance of a sum of ₹1,000/- to SB a/c No.4/2085 in the name of Shri. C. S. Pushpakaran and it was prepared by the delinquent workman. Ext.M22 is the passbook in the name of Shri. C. S. Pushpakaran. MW2 has stated that Ext.M24 is the report submitted by him to the Zonal Office relating to the unauthorized acceptance of cash from customers by the delinquent workman.

24. MW2 has stated that Ext.M25 is the leave register retained in Chowannur branch of the management bank for the period from 1993 to 1995. MW2 has stated that page Nos.1, 2 and 18 in Ext.M25 document is pertaining to the leave details of Shri. T. R. Sethumadhavan, the workman. MW2 has stated that Ext.M26 is the SB account Day Book retained in the Chowannur branch of the management bank for the period from 17.04.1995 to 30.10.1995. MW2 has mentioned about the remittance of sum of ₹5,000/- towards account No.4/1933 on 09.06.1995 and it is noted in Ext.M26 document. He has stated that Ext.M27 is the day book pertaining to RD accounts. He has stated that as per the entry in Ext.M27 Smt.Rosy George, RD No.506 remitted ₹1,000/- on 07.06.1995.

25. During cross examination MW2 has stated that he was working in the Chowannur branch of the management bank for about two years. MW2 has stated that Shri. R. V. Siddhi and his son identified Shri. T. R. Sethumadhavan who committed the mischief. He has stated that he reported the matter that the complainant identified the delinquent. He has stated in Ext.M24 report it is noted that the complainant identified the delinquent and he reported the matter to the Assistant General Manager, Zonal Office. MW2 has denied the suggestion that the complainant filed the complaint before the Zonal Office and copy of the same was given to him. MW2 has stated that the person who receives the cash

in the branch is the cashier and he is the person who is issuing the counterfoil in respect of the pay-in-slips to the customers. MW2 has stated that the entry in Page 1 of Ext.M3 document was made by him and the remaining entries were made by Shri. Sethumadhavan. He has denied the suggestion that the entries in Ext.M3 document were not made by the delinquent. He has also denied the suggestion that Ext.M3 is a concocted document. MW2 has denied the suggestion that he is saying falsehood in relation to the Ext.M4 document.

26. MW2 has stated that Ext.M28 is the book containing the enquiry proceedings against Shri. Sethumadhavan relating to the period from 10.01.1996 to 11.10.1996. MW2 has stated that in Ext.M13 passbook all entries except the entry dated 31.01.1995 were made by Shri. Sethumadhavan. MW2 has stated that Ext.M13 passbook was produced by Smt.Rosy George while conducting the enquiry. MW2 has denied the suggestion that he has falsely implicated the workman and foisted false case against him. MW2 has stated that from Ext.M25 it can be ascertained as to whether an employee was on unauthorized absence. According to MW2 leave without pay marked in Ext.M25 is unauthorized absence. He has further stated that in the leave register authorized as well as unauthorized absenteeism are noted. MW2 has stated that in relation to unauthorized absence steps were initiated against the delinquent but no such documents are seen produced in this case.

27. On an evaluation of the evidence tendered by MW2 and the documents marked through him, it can be seen that the management has succeeded in proving beyond doubt the allegation of misconduct relating to delayed payment and the making of incorrect entries in the passbook of customers as detailed in the charge sheet issued against the workman. It is true that the management has not taken steps to examine the defacto complainant Shri. R. V. Siddhi. The Manager who was in charge of the branch at the relevant time i.e., MW2, tendered evidence regarding the delayed payment and making of incorrect entries in the passbook of customers by the delinquent workman. From the documents marked through MW2 and on going through the evidence tendered by him it is evident that the workman accepted amount from the customers while he was working in the Chowannur branch of the management bank and failed to account the same in the books of account of the branch on the same day of accepting the cash from the customers. It is true that in cases detected by the manager and the investigating officer in the course of inquiry, the delinquent remitted the amount to the credit of the respective customers' account at a later date.

28. The learned counsel for the workman submitted that MW2 is a retired employee of the bank and now aged more than 70 years and he cannot recollect the incident which occurred in the year 1994-1995. It is submitted that the evidence tendered by MW2 cannot be relied on to arrive at a conclusion regarding the involvement of the delinquent workman in the alleged incident. The learned counsel for the workman referred to the Ruling reported in *M/s.Bareilly Electricity Supply Co. Ltd. Vs. The Workmen and others – AIR 1972 SC 330* and the decision in *M. C. Charati Vs. Personnel Manager and Disciplinary Authority, Syndicate Bank and others – 2001 (1) LLN 590* and submitted that the procedure adopted by the management is irregular and improper.

29. The learned counsel for the management submitted that the evidence tendered by MW2 and the documents marked and proved through him are sufficient enough to arrive at a conclusion regarding the culpability of the delinquent workman in relation to the charges levelled against him.

30. On an evaluation of evidence tendered by MW2 and the documents marked through him it is evident that the workman has accepted the amount from the son of a customer of the bank – Shri.R. V. Siddhi and failed to remit the same to the account of the bank at the relevant time. He remitted the amount to the credit of the account of Shri. R. V. Siddhi only after the Manager detected the non-payment of the amount to the credit of the account of Shri. R. V. Siddhi, the account holder. Regarding the acceptance of amount from the other customers mentioned in Ext.M6 charge sheet and the delayed remittance to their respective accounts by the delinquent workman after detecting the mischief by MW2 is also proved from the evidence tendered by MW2 and the documents marked through him. Therefore it is evident that the workman has committed the misconduct as alleged by the management.

31. Ext.M8 document marked through MW2 is copy of the show cause notice issued to the workman from the bank. In Ext.M8 document it is noted that the workman received amount from the customers of the bank and failed to remit it to the credit of the customers in the books of account retained in the bank then as and there. There is willful delay on the part of the workman in accounting the amount received from the customers to the credit of the respective customers in the books of account retained in the bank. Ext.M9 is the reply to the show cause notice submitted by the workman. In Ext.M9 the workman has denied the allegations levelled against him. He has stated that knowingly or unknowingly he never committed the misconduct as alleged in the show cause notice. He has mentioned about the practice followed in the branch regarding the making of entries in the passbook and handing over the same to the respective customers. He has requested leniency if it is found that there is any mistake or omission on his part. He promised that he will be more careful in future while dealing with the customers.

32. Ext.M6 is copy of the charge sheet issued to the workman. In Ext.M6 document the management has listed the acts of misconduct committed by the workman. Ext.M7 is the reply to the charge sheet submitted by the workman. In Ext.M7 reply the workman has denied the charges levelled against him. He has stated that he followed the wrong

practice followed in the branch and ultimately he has been made as a scape goat. He has also stated that purposefully he has not done any act prejudicial to the interest of the bank. Regarding the unauthorized absence he has stated that he was suffering rheumatic ailments and had to undergo treatment for the same. He has stated that he had submitted leave applications on all occasions and the bank had granted the leave treating the same as loss of pay.

33. Regarding the allegations of unauthorized absence against the workman MW2 has stated that from Ext.M25 document the details regarding the unauthorized absence of delinquent can be ascertained. He has stated that the branch is retaining absentees register. The management has not produced the same to prove the allegation of unauthorized absence against the workman. Since the bank has ratified the unauthorized absence by treating his absence as leave without pay it cannot be held that the workman has committed the misconduct initiating disciplinary action against him in this regard.

34. In relation to the charge of delayed remittance of amount received from the customers to the credit of their respective accounts in the registers retained in the bank there is ample evidence to substantiate the contention of the management. The evidence tendered by MW2 and the documents marked through him probabilise the fact that the workman has committed the misconduct relating to non-remittance of amount to the credit of the customers of the bank as alleged by the management. Therefore the points for consideration are answered against the workman and in favour of the management.

35. Point Nos.(iii) & (iv):- The incident alleged in Ext.M2 complaint occurred in May, 1995 and the disciplinary proceedings were pending against him before the various Forums. The learned counsel for the workman submitted that the workman attained the age of superannuation in the year 2010 and the proceedings are pending against him even now. Considering the fact that the workman remitted the amount to the credit of the respective customers immediately after detecting the mischief and considering his request to pardon him it is held that the punishment of 'dismissal from service without notice' ordered by the management is disproportionate. Considering the fact that the workman failed to account the amount received from the customers then and there and there was delay or negligence or willful default on his part in remitting the amount to the credit of the respective customers in the books of account retained in the bank; he is liable to be proceeded for the act of misconduct on his part. On evaluating the materials on record, the facts and circumstances of the case, the considerable delay in arriving at the final decision, it is held that the ends of justice will be met by awarding a lesser punishment than the one ordered by the management. Considering the nature of misconduct committed by the workman it is held that the ends of justice will be met by awarding the punishment of "compulsory retirement of the workman w.e.f.10.02.1998 with superannuation benefits till that date". The period of suspension will be treated as such for calculating the superannuation benefits. The points for consideration are answered accordingly.

36. In the result an award is passed holding that the order of dismissal from service, passed by the management against the workman is disproportionate and hence it is set aside. The workman shall be compulsorily retired from the service of the management w.e.f.10.02.1998. He shall be entitled to get superannuation benefits till that date. The period of suspension will be treated as such for calculating the superannuation benefits. The management is directed to disburse the benefits due to the workman within three months from the date of publication of the award in the Official Gazette.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 03rd day of February, 2017.

SASIDHARAN K., Presiding Officer

APPENDIX

Witness for the workman

NIL

Witness for the management

MW1	12.05.2008	Shri. T. N. Ramachandran Nair
MW2	28.01.2017	Shri. M. Raveendran

Exhibits for the workman

NIL

Exhibits for the management

M1	-	Enquiry file.
M2	-	Complaint letter dated 07.06.1995 addressed to the Assistant General Manager, State Bank of India, Zonal Office, Ernakulam by Shri. R. V. Siddhi.

M3	-	Savings Bank passbook bearing account No.7/2724 in respect of Shri. R. V. Siddi in the Chowannur branch of the management bank.
M4	-	Savings Bank Ledger Sheet for the account No.2724 in respect of Shri. R. V. Siddi for the period between 25.05.1995 to 29.06.1995 maintained at the Chowannur branch of the management bank.
M5	-	Cashier's Receipt Scroll dated 29.05.1995 maintained by the Cash Officer and the Cashier of the Chowannur branch of the management bank.
M6	-	Duplicate copy of the Charge Sheet bearing No.DIS/CON/153 dated 30.08.1995 issued by the Assistant General Manager(Disciplinary Authority), State Bank of India, Zonal Office, Region II, Ernakulam to the workman.
M7	-	Reply letter dated 20.10.1995 submitted to the Assistant General Manager, Region II, State Bank of India, Zonal Office, Ernakulam through the Branch Manager, State Bank of India, Chowannur branch, Trichur by the workman.
M8	-	Copy of the Show Cause Notice bearing No.2418-13 dated 21.06.95 issued by the Assistant General Manager, State Bank of India, Zonal Office, Reg-II, Ernakulam to the workman.
M9	-	Reply letter dated 22.07.95 submitted to the Assistant General Manager, Region II, State Bank of India, Zonal Office, Ernakulam through the Branch Manager, State Bank of India, Chowannur by the workman.
M10	-	Disciplinary proceedings under Para 521 of the Sastry Award read with Para 18.28 of the Desai Award and Bipartite Settlements bearing No.Dis/Con 226 dated 06.12.1997 issued by the Disciplinary Authority(Assistant General Manager, Region II), Zonal Office, State Bank of India, Trichur to the workman.
M11	-	Disciplinary proceedings under Paragraph 521 of the Sastry Award read with Paragraph 18.28 of the Desai Award bearing No.Dis/Con 284 dated 10.02.1998 issued by the Disciplinary Authority(Assistant General Manager, Region II), Zonal Office, State Bank of India, Ernakulam to the workman.
M12	-	Order dated 01.06.1998 issued by the Appellate Authority (Deputy General Manager), State Bank of India, Zonal Office, Ernakulam rejecting the appeal given by the workman.
M13	-	Passbook for Recurring Deposit Account No.RD-506 in respect of Smt.Rosy George maintained at the Chowannur branch of the management bank.
M14	-	Recurring Deposit Pay-in-Slip dated 07.06.1995 for ₹1,000/- against RD-506 in respect of Smt.Rosy George in the Chowannur branch of the management bank.
M15	-	Cashier's Receipt Scroll dated 07.06.1995 maintained by the Cash Officer at the Chowannur branch of the management bank.
M16	-	Ledger Sheet for SB A/c No.4/1933 in respect of Shri.M.P. Jose and Smt.M. G. Lissy (Eors) for the period between 02.09.1986 to 04.08.1995 maintained at the Chowannur branch of the management bank.
M17	-	Savings Bank pay-in-slip dated 09.06.1995 for ₹5,000/- against account No.4/1933 in respect of Smt.Lissy Jose in the Chowannur branch of the management bank.
M18	-	Duplicate Savings Bank passbook account No.4/1933 in respect of Shri. M. P. Jose and Smt.M. G. Lissy maintained at the Chowannur branch of the management bank.
M19	-	Cashier's Receipt Scroll dated 09.06.1995 maintained by the Cash Officer at the Chowannur branch of the management bank.
M20	-	Savings Bank Ledger Sheet for the account No.2085 in respect of Shri. C. S. Pushpakaran for the period between 04.07.1988 to 18.10.1995 maintained at the Chowannur branch of the management bank.
M21	-	Debit Voucher No.Nil dated 07.06.1995 for ₹281/- against A/c No.C2/332 of Chowannur branch of the management bank.

M21(a)	-	Savings Bank pay-in-slip dated 07.06.1995 for ₹1,000/- in SB ledger 4/2085 of Chowannur branch of the management bank.
M21(b)	-	Savings Bank pay-in-slip dated 07.06.1995 for ₹281 in SB ledger C2/332 of Chowannur branch of the management bank.
M21(c)	-	Savings Bank pay-in-slip dated 07.06.1995 for ₹4,000/- in SB ledger C-II/330 of Chowannur branch of the management bank.
M21(d)	-	Savings Bank pay-in-slip dated 07.06.1995 for ₹1,000/- in SB ledger C2/332 of Chowannur branch of the management bank.
M21(e)	-	Savings Bank pay-in-slip dated 07.06.1995 for ₹10,000/- in SB ledger C2/334 of Chowannur branch of the management bank.
M21(f)	-	Debit Voucher No.486911 dated 25.04.1995 for ₹1,321.90 against SB ledger C2/364 of Chowannur branch of the management bank.
M21(g)	-	Savings Bank pay-in-slip dated 07.06.1995 for ₹4,000/- in SB ledger C2/406 of Chowannur branch of the management bank.
M21(h)	-	Debit Voucher No.602165 dated 06.06.1995 for ₹5,000/- against SB ledger C2/418 of Chowannur branch of the management bank.
M21(i)	-	Debit Voucher No.602742 dated 07.06.1995 for ₹300/- against SB ledger C2/435 of Chowannur branch of the management bank.
M21(j)	-	Debit Voucher No.024225 dated 27.05.1995 for ₹5,000/- in respect of Smt.Carmelina Rangel E D'Souza of Chowannur branch of the management bank.
M21(k)	-	Savings Bank pay-in-slip dated 07.06.1995 for ₹5,000/- in SB ledger NRF/173 of Chowannur branch of the management bank.
M21(l)	-	Savings Bank pay-in-slip dated 07.06.1995 for ₹3,750/- in SB ledger C2/1014 of Chowannur branch of the management bank.
M21(m)	-	Savings Bank pay-in-slip dated 07.06.1995 for ₹266.41 in SB ledger C2/1061 of Chowannur branch of the management bank.
M21(n)	-	Savings Bank withdrawal form dated 07.06.1995 for ₹300/- in respect of Smt. Ammukutty Sree in the Chowannur branch of the management bank.
M21(o)	-	Savings Bank pay-in-slip dated 07.06.1995 in respect of Smt. Chinnu for ₹500/- in SB Account No.1757 in the Chowannur branch of the management bank.
M21(p)	-	Savings Bank pay-in-slip dated 07.06.1995 for ₹1,600/- in SB ledger 4/1840 in respect of Shri. K. Balan in the Chowannur branch of the management bank.
M21(q)	-	Savings Bank pay-in-slip dated 07.06.1995 for ₹1,094/- in SB ledger 4/2040 in respect of Shri. C. Gopalan Nair in the Chowannur branch of the management bank.
M21(r)	-	Savings Bank pay-in-slip dated 07.06.1995 for ₹1,500/- in SB ledger 5/2173 in respect of Shri. Komalan in the Chowannur branch of the management bank.
M21(s)	-	Savings Bank withdrawal form dated 07.06.1995 for ₹1,500/- in respect of Smt. Komalam of Chowannur branch of the management bank.
M21(t)	-	Savings Bank withdrawal form dated 07.06.1995 for ₹500/- in respect of A/c No.7/2610 in the Chowannur branch of the management bank.
M21(u)	-	Savings Bank withdrawal form dated 07.06.1995 for ₹4,500/- in the Chowannur branch of the management bank.
M21(v)	-	Savings Bank pay-in-slip dated 07.06.1995 for ₹144/- in respect of Shri. K. C. Kumaran, staff A/c No.S.30 in the Chowannur branch of the management bank.
M21(w)	-	Savings Bank withdrawal form dated 07.06.1995 for ₹150/- from Shri. K. C. Kumaran, A/c No.S.30 in the Chowannur branch of the management bank.
M22	-	Savings Bank passbook account No.2085 in respect of Shri. C. S.Pushpakaran maintained at Chowannur branch of the management bank.

M23	-	Filled up account opening form for individuals dated 25.05.1995 given by Shri. R. V. Siddi bearing account No.7-2724 in the Chowannur branch of the management bank.
M24	-	Report No.AGM-II-16-41 dated 08.06.1995 regarding the unauthorized acceptance of cash from customers submitted by the Branch Manager of the Chowannur branch, State Bank of India to the Assistant General Manager, State Bank of India, Zonal Office, Region II, Ernakulam.
M25	-	Leave Register (Code No.3073) from 01.01.1993 onwards maintained at the Chowannur branch of the management bank.
M26	-	SB Account Day Book from 17.04.1995 to 30.10.1995 (Item Code No.3148) maintained at the Chowannur branch of the management bank.
M27	-	RD Day Book (Code No.8148) from 03.04.1990 to 16.05.1996 and RD interest from 11.05.1990 to 06.04.1996 maintained at the Chowannur branch of the management bank.
M28	-	Enquiry proceedings from 10.01.1996 to 11.10.1996 submitted by the Regional Manager-II, Disciplinary authority.

नई दिल्ली, 4 मई, 2017

का.आ. 1211.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार फडरल बैंक लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, एर्नाकुलम के पंचाट (संदर्भ संख्या 339/2006 और 72/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.05.2017 को प्राप्त हुआ था।

[सं. एल-12012/54/95-आईआर (बी-I),

सं. एल-12012/75/98-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 4th May, 2017

S.O. 1211.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 339/2006 & 72/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure, in the industrial dispute between the management of Federal Bank Ltd. and their workmen, received by the Central Government on 04.05.2017.

[No. L-12012/54/95-IR (B-I),

No. L-12012/75/98-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present: Shri K. Sasidharan, B.Sc., LLB, Presiding Officer

(Wednesday the 14th day of December, 2016/23rd Agrahayana, 1938)

ID 339/2006

(Formerly ID No.17/1996(C) of Labour Court, Ernakulam)

Union : The General Secretary,
Federal Bank Staff Union,
No.2, Champion Bldg.,
Bank Junction,
Aluva – 683101.

By Advs. Shri. Ashok B. Shenoy & Shri. Anish V. Hassainar

Management : The Chairman,
M/s.Federal Bank Ltd.,
Head Office,
Aluva – 683101

By M/s. B. S. Krishnan Associates

ID 72/2006**(Formerly ID No.47/1998(C) of Labour Court, Ernakulam)**

Union : The General Secretary,
Federal Bank Staff Union,
Champion Buildings,
Bank Junction,
Aluva – 683101
KERALA

By Advs. Shri. Ashok B. Shenoy & Shri. A. J. James

Management : The Chairman,
Federal Bank Ltd.,
Head Office,
Alwaye – 683101
KERALA.

By M/s. B. S. Krishnan Associates

These cases coming up for final hearing on 14.12.2016 and this Tribunal-cum-Labour Court on the same day passed the following:

COMMON AWARD

These are the disputes referred by the Central Government as per clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (Act 14 of 1947).

2. The dispute referred for adjudication in ID 339/2006 is:

“Whether the action of the management of M/s. Federal Bank Ltd. in imposing the penalty of censure and stoppage of increment for a period of 6 months without cumulative effect on Shri C. C. Dinesh is legal and justified? If not to what relief is the workman entitled?”

3. As per reference order No.L-12012/54/95-IR(B-I) dated 22.07.96, the Ministry of Labour, Government of India referred the aforesaid dispute for adjudication before the Hon’ble Labour Court, Ernakulam. Before the Hon’ble Labour Court, Ernakulam the matter was numbered as ID No.17/1996(C). Subsequently as per the Order of the Hon’ble High Court of Kerala, Ernakulam, the matter was transferred to this Tribunal for disposal afresh. After receipt of the records from the Hon’ble Labour Court, Ernakulam, notice was issued to the parties. The parties entered appearance through counsel. The union as well as the management filed the claim statement and written statement respectively setting forth the contentions and the defence thereof. Subsequently as per the Award dated 09.07.2008 this Tribunal held that:

“the action of the management in imposing the penalty of censure by Ext.M-8 order dated 22.04.1991 is illegal and in violation of Clause-3(iii)(b) of Bipartite Settlement dated 31.10.1979 and is set aside. However the punishment of censure as per Ext.M-5 order dated 05.02.1991 is legal and justified and shall remain.”

4. Against that award the management preferred a WP(C) No.2850/2009 (L) before the Hon’ble High Court of Kerala, Ernakulam. As per the Judgment dated 19.03.2015 in WP(C) No.2850/2009-L & and O.P.(L.C.)No.2 of 2011-O, the Hon’ble High Court of Kerala, Ernakulam held as follows:

“Ext.P1 award in I.D.No.339 of 2006, impugned in W.P.(C).No.2850 of 2009, would be upheld as a preliminary order and the award in I.D.No.72 of 2006 would be set aside for reason of the remand ordered in the earlier case and also for the reason of this Court having set at naught the finding of the Tribunal that the punishment of stoppage of increment takes the misconduct out of the definition of “habitual act ”.

The Writ Petition and the Original Petition are allowed with the above observations.”

5. The dispute referred for adjudication in ID 72/2006 is:

“Whether the action of the management of M/s. Federal Bank Ltd. in dismissing the services of workman Sri C. C. Dinesh, Clerk w.e.f.30.04.97 for the alleged charge of absents without leave, is justified? If not, to what relief the workman is entitled?”

6. The matter was originally referred by the Ministry of Labour, Government of India for adjudication before the Hon’ble Labour Court, Ernakulam vide reference order No.L-12012/75/98-IR(B-I) dated 30.10.1998. The matter was numbered as ID No.47/1998(C) before the Hon’ble Labour Court, Ernakulam Subsequently as per the Order passed by the Hon’ble High Court of Kerala, Ernakulam, the matter was transferred to this Tribunal and it was renumbered as ID 72/2006. After receipt of the case file before this Tribunal, summons was issued to the parties. On receipt of which the parties entered appearance through counsel. The union as well as the management filed the claim statement and written statement respectively setting forth the contentions and the defence thereof. As per the Award dated 28.10.2008 this Tribunal held that:

“the action of the management in dismissing the workman Sri.C.C. Dinesh from service is illegal and unjustified and the punishment of dismissal is reduced to stoppage of increment for a period of six months without cumulative effect as per Clause 19.8(C) of First Bipartite Settlement. The management is directed to re-instate the workman in service with continuity of service and back wages from 30.04.1997 and all other statutory benefits within one month after the award becomes enforceable.”

7. Against this award in ID 72/2006, the management preferred an OP(LC) No.2/2011 (O) before the Hon’ble High Court of Kerala, Ernakulam. As per the Judgment dated 19.03.2015 in WP(C) No.2850/2009-L & and O.P.(L.C.)No.2 of 2011-O, the Hon’ble High Court of Kerala, Ernakulam held as follows:

“Ext.P1 award in I.D.No.339 of 2006, impugned in W.P.(C).No.2850 of 2009, would be upheld as a preliminary order and the award in I.D.No.72 of 2006 would be set aside for reason of the remand ordered in the earlier case and also for the reason of this Court having set at naught the finding of the Tribunal that the punishment of stoppage of increment takes the misconduct out of the definition of “habitual act”.

The Writ Petition and the Original Petition are allowed with the above observations.”

8. After the remand order passed by the Hon’ble High Court of Kerala, the parties entered appearance before this Tribunal through their respective counsel. As suggested by the parties, the matter was referred for consideration before the Lok Adalath. The matter came for consideration in the Lok Adalath. On 07.12.2016 when the matter was taken up for consideration, the management and the workman involved in this reference filed a joint statement setting forth the terms and conditions of settlement in full and final settlement of all the claims in ID 339/2006 and ID 72/2006. The matter was taken up for consideration in the Lok Adalath on 14.12.2016. On that day the union as well as the management filed a joint statement for settlement of all the claims between the union and the management in respect of the disputes referred in ID 339/2006 and ID 72/2006. The joint statement filed by the union and the management is recorded. The joint statement filed by the workman and the management is also recorded.

9. In view of the joint statement filed by the union and the management involved in these two references it is evident that the parties have settled the dispute once for all and a finality has been arrived in relation to the matter in dispute. Therefore it is held that the matter in dispute in ID 339/2006 and ID 72/2006 has been settled between the parties, in the Lok Adalath, in accordance with the terms and conditions set forth in the joint statement filed by the union and management and the joint statement filed by the workman involved and the management.

10. In the result a common award is passed in ID 339/2006 and 72/2006 as detailed below:

“that the disputes referred for adjudication in ID Nos.339/2006 and 72/2006 are answered as settled between the parties. The terms of settlement as per the joint statement signed by the parties and as per the joint statement filed by the management and the workman involved is recorded and it shall form part of the Common Award. Handover the Demand Draft for ₹17,50,000/- (Rupees Seventeen lakhs and fifty thousand only) produced by the management vide DD No.22220648dated 07.12.2016 in favour of the workman involved in these two references to the union/workman after obtaining proper acknowledgement in full and final settlement of all the claims in ID 339/2006 and ID 72/2006”.

The common award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 14th day of December, 2016.

SASIDHARAN K., Presiding Officer

नई दिल्ली, 4 मई, 2017

का.आ. 1212.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स एअर इण्डिया लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ संख्या 2/64 ऑफ 2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.04.2017 को प्राप्त हुआ था।

[सं. एल-11012/42/2004-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 4th May, 2017

S.O. 1212.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai (Ref. No. 2/64 of 2005) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. Air India Limited and their workmen, which was received by the Central Government on 11.04.2017.

[No. L-11012/42/2004-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI****PRESENT : M. V. Deshpande, Presiding Officer****REFERENCE NO.CGIT-2/64 of 2005****EMPLOYERS IN RELATION TO THE MANAGEMENT OF**

1. Chairman-cum Managing Director,
Air India Ltd.,
Nariman Point,
Mumbai – 400 029.
2. M/s. Jaymit Enterprises
C/o. M/s. Awale Corporation,
34, Vincent Court, 3rd Floor,
Dr. Ambedkar Road, Dadar [East],
Mumbai – 400 014

AND**THEIR WORKMEN**

Shri Motilal Rupam Kuril
Represented by
Kamgar Utkarsha Sabha,
Smt. Rama Gulab Joshi Niwas,
Parleshwar Road,
Vile Parle [East],
Mumbai – 400 057.

APPEARANCES:

FOR THE EMPLOYER : Ms. Geeta Raju, Advocate.
i/b. M/s. Kini & Co.

FOR THE WORKMAN : Shri A.P. Kulkarni, Advocate

Mumbai, dated the 16th March, 2017.**AWARD**

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-11012/42/2004-IR (C-1) dated 24.03.2005. The terms of reference given in the schedule are as follows :

“Whether the contract between Air India and the Contractor M/s. Jaymit Enterprises is sham and bogus and is a camouflage to deprive Shri Motilal Rupam Kuril of the benefits available to permanent workmen of Air India Ltd ?”

“1. Whether Shri Motilal Rupam Kuril should be declared as permanent / regular worker of Air India ?”

“2. What are the wages and other consequential benefits to be paid to Shri Motilal Rupam Kuril and from which date and what other directions are necessary in the matter ?”

2. After the receipt of the reference, both the parties were served with the notices. Second party union filed statement of claim Ex.9. According to the union, the workman concerned viz. Shri Motilal Rupam Kuril joined the first party company in September 1997 as Carpenter. At that time he was paid wages @ Rs.125/- per day and presently he is getting wages @ Rs.144/- per day. His wages are paid on the basis of actual days work. The workman concerned is employed at Air India Company which is adjacent to the old Airport. There are around 47 buildings and 952 flats at the said place where the second party workman is working.

3. According to the union, the first party company is engaging workman concerned in the present reference, under various contractors such as M/s. Jaymit Enterprises, M/s. Famous Building Contractor, M/s. Mahendra Sanitation. New contractor by name M/s. Shiva Construction has been introduced. Even after change of the contractors there was no change in the nature of the work and duties performed by the concerned workman. The duties of the concerned workman are integral part of the day to day activities of the first party company M/s. Air India Ltd. They are regular, permanent, essential and perennial in nature.

4. According to the union, earlier first party company was giving some artificial and normal breaks to the workman concerned. However, for the last around 6 – 7 years the first party company did not give any break to him and he is continuously working with the first party company without any break in his service. Duty hours of the workman concerned are from 9.30 a.m. to 5.30 p.m. He is required to work under the supervision, control and directions of the officials of the first party company. As such so-called contracts were not genuine and the same were sham & bogus. Even there is gross discrimination in the wages of permanent workmen employed in the first party company and the workman concerned.

5. According to the union, the workman concerned is performing the duties of repairing doors, windows, putting handles, repairing hinges and other carpentry work in respect of various flats / premises occupied by the employees in the staff colony of the first party company. By performing the aforesaid duties for years together, the workman concerned has acquired the necessary experience and knowledge to do the permanent nature of the duties. So-called contracts entered into between first party company and so-called contractors are paper arrangements only to deprive the concerned workman of the benefits available to the permanent workmen employed by the Air India Ltd. He has been in continuous employment of the first party company for last several years and has completed continuous service of more than 240 days in the employment of the first party company. The union is therefore asking for declaration that the contracts between Air India Ltd. and respective contractors are sham and bogus and are camouflage to deprive the concerned workman of the benefits available to the permanent workmen in the employment of the first party company. Union is also asking for declaration that the concerned workman be declared as direct employee of the first party company and to direct the first party company to give the status, benefits and privilege of the permanent workmen to the concerned workman and to pay the arrears arising there from along with interest @ 18% per annum. The union is also asking for consequential benefits to the concerned workman.

6. First party company has resisted the claim by filing written statement Ex.12. According to the first party company, the reference is not maintainable. There is no employer-employee relationship between Air India Ltd. and Mr. M.R. Kuril since he was employed by various contractors who are entrusted to work on maintenance of colonies which were established as measure of welfare activity of the first party company of its employees. The first party company has no control of whatsoever nature upon the activities of the maintenance of the colonies and the workman concerned have no relation with the first party company. The activities of maintenance of residential colonies are neither incidental to the business activities of the first party company nor permanent or perennial in nature. Such activities are specialized activities and none of the employees of first party company are engaged for similar activity.

7. It is thus contention of the first party company that the selection, recruitment and appointment of the concerned workman has not been done by the first party company through the process of inviting tenders from various agencies to carry out the work of electrical maintenance, plumbing work, carpentry work etc. in the colonies is awarded to the contractors for specific, determined cost. In the course of above process the job was assigned to various contractors to carry out carpentry work in housing colonies. The workman concerned has been appointed by the above contractors to attend the complaints from the residence of Air India colonies with regard to carpentry work which is not a job of 8 hours duration on each day and it depends upon the number of complaints received.

8. It is then contention of first party company that initially first party company had assigned responsibility through the process of tenders to M/s. Famous Building Contractors. On expiry of said contract fresh tender was floated. The wages are paid by the agency to their employees in presence of officers of the first party company and overall supervision and control of the duties performed by the workman was done by the agencies. As such there is no permanent employee of the first party company for doing the said and similar work.

9. It is also contention of first party company that as per the directions of Hon'ble High Court, the management can change the contractor but the contractor has to deploy the same workman. The contractor used to maintain the wage register and attendance sheet as per the rule. The first party company has therefore denied that there is any camouflage and subterfuge in the employment of the concerned workman. It is also denied that there is paper arrangement between the first party company and so-called contractors and therefore concerned workman is not entitled to any relief. It has thus sought the rejection of the reference with costs.

10. The following issues are framed at Ex.19. I reproduce the issues along with my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
1.	Whether the contract between Air India and the Contractor M/s. Jaymit Enterprises is sham and bogus and is a camouflage ?	No
2.	Whether the employees involved in the Reference required to declare as permanent employees of the first party ?	No
3.	Whether the employees involved in the Reference are entitled for monetary benefits as given to the permanent employees of the 1 st party ?	No As per final order
4.	What Order ?	As per final order

REASONS

Issue Nos. 1, 2 & 3

11. It is submitted by second party union that the concerned workman is working since September 1997. He is in continuous service since that date and duties performed by him are of perennial, permanent and regular in nature.

12. So far contentions go, it is specifically contended by the union in the statement of claim itself that the concerned workman is engaged under various contractors such as M/s. Jaymit Enterprises, M/s. Famous Building Contractor, M/s. Mahendra Sanitation. The new contractor by name Shiva Construction has been introduced and brought back by the first party company. It is mainly contention of the union that the first party company is engaging the concerned workman for doing the work of the activities of the first party company which are integral part of day to day activity of the first party company. In view of this it is to be seen whether the so-called contracts are genuine or not?

13. We have documents showing the work orders issued by the first party company. Ex.29 collectively are the work orders showing that in 1998, 1999, 2000 the work orders were issued in favour of M/s. Jaymit Enterprises for engaging carpenters and masons to carry out miscellaneous carpentry and masonry works such as fixing of hinges, rectifying doors, windows, plaster repairs and other miscellaneous works. The work order was issued on 24.2.98 for completing the above work for the month of January 1998. Work order was issued on 20.7.1998 for completing the work for the month of May & June 1998. Work order was issued on 4.9.1998 for completing the work of July 1998. Subsequently, the work orders are issued on 9.10.1998, 5.11.1998, 9.11.1998, 9.12.1998, 29.1.1999 till 7.12.1999 to M/s. Jaymit Enterprises for completing the work of this nature for those particular months as are mentioned in the work orders. Subsequently, also the work orders are issued in the name of M/s. Jaymit Enterprises up to 16.4.2000 for completing the work of that nature as are mentioned in the orders for particular months. It appears that concerned contractor submitted bills pertaining to that period consisting work done by them. Those bills are at Ex.30 collectively. Ex.31 collectively are the copies of attendance register maintained by the contractor. It is pertinent to note that the attendance register is maintained by the contractor in respect of attendance of the concerned workman and then it appears that the concerned workman was paid wages by the contractor as per the attendance register. This attendance register bears the signature of concerned proprietor for companies viz. M/s. Able Corporation, M/s. Famous Building Contractor etc. This would show that the concerned workman was never appointed at any time by the first party company nor first

party company has paid him wages at any time and that the concerned workman was engaged under the various contractors for doing the work assigned to the contractors by the first party company under these work orders.

14. This is precisely, the evidence of the concerned workman also. In statement of claim, the concerned workman has stated that he was engaged under various contractors such as M/s. Jaymit Enterprises, M/s. Famous Building Contractor, M/s. Mahendra Sanitation etc. In his cross-examination he has admitted that the contractor used to make the payment to him in cash. He admits that Air India Ltd. has never made payment to him. He even admitted that Air India Ltd. has not issued any appointment letter to him. Admittedly previously there was M/s. Able Corporation and now it is Settu Contractor. He even admits that M/s. Jaymit Enterprises was the earlier contractor. The contractor has contract of one year with the company. As per his own admission he has signed the attendance register of contractor. He admits that he has signed the documents of contractor for attendance and receiving payments etc. In view of these admissions given by the concerned workman in his cross-examination it is clear that he was engaged by the contractor. The contractor used to maintain his attendance register, contractor used to make the payment of wages to him. That would show that the concerned contractor was supervising his work.

15. We have no document to show that the concerned workman was engaged in 1997 by the first party company. But then it appears that the second party workman has filed W.P. No. 1086/2003 and in view of protection granted by the Hon'ble High Court he is continued though the contractors are changed. But then the fact remains that since from inception he was engaged by the contractor for doing the work entrusted to the contractor under the work order and his work was supervised by the contractor who engaged him from time to time. Admittedly, initially there were breaks in his work but then in view of protection by the Hon'ble High Court, no such breaks were given and he is continued for doing the said work.

16. Even then the Learned Counsel for the second party workman submitted that the work that has been carried out by the concerned workman is perennial, permanent and regular in nature and the said work is integral part of the activities of the first party company. In this respect if we see the evidence of concerned workman, he states that he was performing all sort of carpentry work in the colony consisting of around 47 buildings and 952 flats of the first party company. In his cross-examination he has admitted that he was mainly doing the work of repairing doors, door frames and windows. He worked in the staff colony which is situated besides the office of the company and then we have documents to show that as and when there was requirement of the work of the carpenter, residents of the colony used to make complaints which are registered in the register to carry out the said work. It is thus evidence of the witness of first party company Shri R.L. Patil that the work of the concerned workman was not regular work and he is required to attend the duty only when there is any work as per the complaint given by the residents of the colony. From the nature of the work which has been carried out by the concerned workman, it is clear that his work is not of permanent and perennial in nature. He was required to work only when there was some complaint in respect of doors, windows etc. for which carpentry work is required. From the documents it is clear that the said services like electrical maintenance, plumbing, carpentry etc. provided to the residents of the colonies are entrusted to the contractors and therefore it cannot be said to be core or integral part of the activities of the first party company.

17. We have documents i.e. certificates of registration under Contract Labour [Regulation & Abolition Act], 1970 issued to Air India Ltd. by the Labour Commissioner. These certificates are pertaining to the year 1989 for transportation of work and then there are work orders issued to the different contractors. It is thus clear from the evidence and documents on record that the nature of work carried out by the concerned workman was not of perennial in nature. He was engaged by the contractor and his work is also supervised by the contractor for which the contractors used to pay wages to him as per attendance register maintained by them. In the circumstances it can be gathered that the concerned workman is not regular worker of Air India Ltd. for doing the carpentry work. Even though it is admitted that regular workers are there for doing the carpentry work but then it is made clear that these workers are appointed or engaged after following due process. Since the concerned workman is not an employee of first party company, he cannot take advantage of the fact that he is continued to work as per the protection given to him in view of order of Hon'ble High Court in W.P. No. 1086/2003. In the context, hand can be laid on the decision in case of Bharat Heavy Electricals Ltd. and Anil Kumar & Ors. 2007 I LLJ (SC 619).

18. Even then Learned Counsel for the second party union submitted that the concerned workman has acquired necessary experience and knowledge etc. to do the duties of permanent nature i.e. duties of carpenter and engaging such skilled labour under contractor by the first party company amounts to unfair labour practice defined under item 10 of the Vth Schedule read with section 2 (RA) of the I.D. Act, 1947. The concerned workman was paid the lowest wages which would show that he was required to do the work of carpenter on lowest wages which also amounted to unfair labour practice. He seeks to rely on the decision in case of Secretary, Haryana State Electricity Board and Suresh & Ors. 1999 (2 LLN 612) to submit that even though the work is awarded to a contractor such work cannot be said to be a work of seasonal nature especially when regular employees are engaged for doing the same work.

19. He also seeks to rely on the decision in case of Vegoils P. Ltd. V/S. The Workmen 1972 LAB I.C. 760 to submit that

“if the work for which the contract labour is employed is incidental and closely connected with main activity of the industry and is of perennial and permanent nature, the abolition of the contract labour would be justified.”

20. In this respect Learned Counsel for the first party company submitted that in the case cited supra, the nature of work was not of seasonal nature. Contract itself was stipulating number of employees to be engaged for the same work. Overall control of the working of the contract labour including administrative control remained with the Board i.e. first party company. In the circumstances, it is held that so-called contract system was a camouflage. In the instant case the nature of work is not of a perennial nature since only after receiving the complaints from the residents of the colonies, some repairs of the doors and windows were to be made and therefore the contract labour is employed. Therefore, in my considered view, the facts of the present case are quite distinct and distinguishable.

21. Learned Counsel for the union also submitted that if the contract is sham and not genuine the workman of so-called contractor can raise industrial dispute for their absorption by the principal employer. He seeks to rely on the decision in case of Gujarat Electricity Board V/S. Hind Mazdoor Sabha & Ors. 1995 (5 SCC 27) to submit that

“the appropriate Government vests with the authority to abolish the genuine labour contract”.

22. He also seeks to rely on the decision in case of G.M., ONGC Chilchar V/S. ONGC Contractual Workers Union 2008 AIR SCW 96 to submit that award of the tribunal holding the workers to be the employees of principal employer and granting the relief of regularization is not outside the jurisdiction. In para 13 of the judgment it has been observed that,

“real issue was as to status of the workmen of employees of ONGC or of the contractor and it having been found that the workmen were the employees of ONGC, they would be ipso-facto be entitled to all benefits available in that capacity and the issue of regularization to their pale into insignificance. We find that in this situation the industrial tribunal and the Division Bench of H.C. were justified in lifting the veil in order to determine the nature of employment in the lights of judgment quoted above. We therefore find that judgment in Umadevi’s case would not be applicable and the facts of Pandey’s case are on the contrary more akin to the facts of the present case”.

23. He also seeks to rely on the decision in case of ONGC V/S. Petroleum Employees Union 2011 III CLR 590 to submit that,

“once the appropriate Government issued notification under section 10(1) of Contract Labour [Regulation & Abolition] Act, 1970 prohibiting employment of the contract labour to carry out certain operations of the factory or establishment in particular industries or public undertakings and still the management engages labour through the contractors to carry out such operations, such workers can contend and that such contracts of the management with the contractor are sham and bogus and mere camouflage.”

24. However, in the instant case there is no such notification under section 10(1) of the Contract Labour [Regulation & Abolition] Act, 1970 and even after considering the nature of work of the concerned workman it cannot be said that said work is of perennial nature and he is continued on the basis that the work is integral part of the activity of the first party company. Therefore the facts in the present case are different.

25. In the light of above discussion I hold that the contract between the Air India Ltd. and the contractor Jaymit Enterprises is not sham and bonus and camouflage. The concerned workman is not entitled to get declaration as a permanent employee of the first party company nor he is entitled to the monetary benefits as given to the permanent employees of the first party company. The above issues are therefore answered accordingly as indicated against each of them in terms of above observations.

26. In view of above findings, I proceed to pass the following order.

ORDER

“Reference is rejected with no order as to costs.”

Date: 16.03.2017

M. V. DESHPANDE, Presiding Officer

नई दिल्ली, 8 मई, 2017

का.आ. 1213.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 29/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.05.2017 को प्राप्त हुआ था।

[सं. एल-41012/44/99-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 8th May, 2017

S.O. 1213.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 29/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 08.05.2017.

[No. L-41012/44/99-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 17th February, 2017

Reference : (CGITA) No. 29/2005

1. The Divisional Railway Manager (Estt.),
Western Railway,
Divisional Office, Kothi Compound,
Rajkot (Gujarat) - 360001
2. The Dy.Chief Engineer
O/o Chief Project Manager (C),
Western Railway, B.G. Station Building, 2nd Floor,
PO Railwaypura,
Ahmedabad (Gujarat)

...First Party

V/s

The President,
Saurashtra Employees Union,
Umesh Commercial Complex,
Office No. 213 and 214,
2nd Floor,
Near Chaudhar High School,
Rajkot (Gujarat) – 360001

...Second Party

For the First Party : Shri H.B. Shah
For the Second Party : Shri B.B. Gogia

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/44/99-IR(B-I) dated 09.03.2005 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the industrial dispute raised by Saurashtra Employees Union against the management of D.R.M. Western Railway, Rajkot over re-instatement with full back wages to Shri Prabhat Singh Jashubha Jadeja justified? If so, to what relief the workman is entitled to?”

1. The reference dates back to 09.03.2005. The workman submitted the statement of claim Ex. 5 on 08.08.2005 and the first party filed the written statement Ex. 9 on 16.09.2009. The case was listed for evidence of the second party on 29.09.2011. Since then the second party has not been leading evidence despite giving several opportunities and issuing notice Ex. 8 to appear on 26.06.2011. Today, the workman's advocate is present but second party workman is absent which makes very much clear that the workman is not willing to prosecute the case.

2. Therefore, the reference is disposed of in the absence of the evidence of the second party workman with the observation as under: “the industrial dispute raised by Saurashtra Employees Union against the management of D.R.M. Western Railway, Rajkot over re-instatement with full back wages to Shri Prabhat Singh Jashubha Jadeja is not justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 मई, 2017

का.आ. 1214.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 154/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.05.2017 का प्राप्त हुआ था।

[सं. एल-12012/188/98-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 8th May, 2017

S.O. 1214.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 154/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 08.05.2017.

[No. L-12012/188/98-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 20th February, 2017

Reference : (CGITA) No. 154/2004

The Asstt. General Manager,
State Bank of India,
Region 11, Zonal Office,
C.N. Vidhyalaya Campus, Ambawadi,
Ahmedabad (Gujarat) – 380015

...First Party

V/s

Shri Narendra M. Parmar,
C/o Active Labour Association,
Shmabhu Nivas, Opp. Parag Society,
Odhav,
Ahmedabad (Gujarat) - 382410

...Second Party

For the First Party : Shri B.K. Oza

For the Second Party : Shri G.K. Rathod

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/188/98-IR(B-I) dated 22.01.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of State Bank of India, Ahmedabad in terminating the services of Shri Narendra M. Parmar w.e.f. 20.09.1997 is justified? If not, what relief the workman concerned is entitled to?”

1. The reference dates back to 22.01.1999. The second party submitted the vakalatpatra Ex. 5 and statement of claim Ex. 4 on 05.04.1999. The first party submitted the vakalatpatra Ex. 3 on 10.03.1999 and written statement Ex. 7 on 14.10.1999. The second party workman was examined vide Ex. 10 on 20.05.2001 and his another witness at Ex. 27 on 04.07.2002 but since then the second party workman has been absent and it has also been pointed out by the first party that the workman has already expired on 09.09.2005. Since then the legal heirs of the second party workman have not moved any application for their substitution in place of the workman. Thus the first party has requested that the reference should be declared as abate in the absence of the substitution of the legal heirs.

2. Thus the reference is hereby abated.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 मई, 2017

का.आ. 1215.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 127/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.05.2017 को प्राप्त हुआ था।

[सं. एल-41011/32/2008-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 8th May, 2017

S.O. 1215.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 127/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 08.05.2017.

[No. L-41011/32/2008-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 17th February, 2017

Reference : (CGITA) No. 127/2010

The Divisional Railway Manager (Estt.),
Western Railway,
DRM Office,
Kothi Compound,
Rakot (Gujarat)

...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
134, Near Vishwakarma Mandir,
Opp. Railway Colony,
Sabarmati,
Ahmedabad (Gujarat)

...Second Party

For the First Party : None

For the Second Party : Shri B.K. Sharma

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/32/2008-IR(B-I) dated 03.12.2009 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the DRM, Western Railway, Kothi Compound, Rajkot in removing Shri Ramubhai M. Cleaner, A.M.E., Rajkot from his services w.e.f. 20.05.1996, is legal and justified? To what relief is he entitled?”

1. The reference dates back to 03.12.2009. The second party submitted the statement of claim Ex. 2 on 16.02.2010 but the first party despite number of directions, failed to submit the written statement. On 26.11.2013, the second party workman submitted his affidavit Ex. 9 in support of statement of claim Ex. 2. The affidavit is ambiguous and vague.
2. Since 21.12.2015, when the second party was given last opportunity to lead evidence as ex-parte failed to appear on 28.04.2016, 06.09.2016, 21.12.2016 and 15.02.2017, he is absent. Thus it appears that the second party workman is not willing to prosecute the case for leading his evidence.
3. Therefore, the reference is dismissed in non-prosecution of the case by both the parties.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 मई, 2017

का.आ. 1216.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 28/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.05.2017 को प्राप्त हुआ था।

[सं. एल-41011/83/2008-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 8th May, 2017

S.O. 1216.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 28/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 08.05.2017.

[No. L-41011/83/2008-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 23rd February, 2017

Reference : (CGITA) No. 28/2010

The Divisional Railway Manager,
Western Railway,
DRM Office,
Ahmedabad (Gujarat)

...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
134, Near Vishwakarma Mandir,
Opp. Railway Colony,
Sabarmati,
Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri N.J. Acharya

For the Second Party : Shri B.K. Sharma

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/83/2008-IR(B-I) dated 18.06.2009 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the Divisional Railway (Estt.), Western Railway, DRM Office, Ahmedabad in dismissing/removal from Railway Service of Shri Vijay Kumr S. Shamra, ex-Khalasi, Sabarmati, Ahmedabad is legal and justified? If not, to what relief he is entitled?”

1. The reference dates back to 18.06.2009. The second party submitted the statement of claim Ex. 8 on 20.07.2011 and the first party submitted the written statement Ex. 9 on 13.06.2012. The case was listed for evidence of the second party who submitted his affidavit Ex. 12 as examination in chief on 28.11.2013. Since then the second party workman has been absent for his cross-examination by the first party employer. On 23.12.2016, the second party workman was given last opportunity for cross-examination in absentia but even on 23.02.2017, the next date, the workman is again absent. Thus it appears that the second party is not willing to prosecute the case.

2. Therefore, the reference is disposed of in the absence of the evidence of the second party with the observation as under: “the action of the Divisional Railway (Estt.), Western Railway, DRM Office, Ahmedabad in dismissing/removal from Railway Service of Shri Vijay Kumr S. Shamra, ex-Khalasi, Sabarmati, Ahmedabad is legal and justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 मई, 2017

का.आ. 1217.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 670/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.05.2017 को प्राप्त हुआ था।

[सं. एल-41011/42/98-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 8th May, 2017

S.O. 1217.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 670/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 08.05.2017.

[No. L-41011/42/98-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 23rd February, 2017

Reference : (CGITA) No. 670/2004

1. The Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda (Gujarat) – 394220
 2. The Assistant Engineer (North),
Western Railway,
Bharuch (Gujarat) – 392001
- ...First Party

V/s

Shri Ramaswamy N.,
C/o R.D. Pillai,
Railway Quarter No. 312/ G,
Railway Colony, Padhari,
Anand(Gujarat) – 38800

...Second Party

For the First Party : Shri Mavlankar

For the Second Party : Shri J.K. Ved

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/42/98-IR(B-I) dated 04.05.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the Railway Administration, Western Railway, Baroda Division through its officers in discontinuing the services of Shri Ramaswamy N., Gangman without giving any legal terminal dues, after finding him medically unfit in all the categories is justified, proper and legal? If not, to what relief the workman is entitled for?”

“Whether the demand of the workman for the employment of his dependent after his being totally medically unfit for Railway Services is just and proper? If so, to what relief the workman is entitled for and what other directions are necessary in the matter?”

1. The reference dates back to 04.05.1999. The second party submitted the statement of claim Ex. 2 on 09.05.1999 along with documents vide list Ex. 3. The first party submitted the vakalatpatra Ex. 5 and written statement Ex. 6 on 04.03.2001. Second party was examined at Ex. 9 on 28.01.2003. Now today on 23.02.2017, Shri J.K. Ved, the union leader on behalf of the second party workman requested to withdraw the case, same is allowed.
2. Therefore, the reference is decided as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 मई, 2017

का.आ. 1218.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 125/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.05.2017 को प्राप्त हुआ था।

[सं. एल-41011/22/2013-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 8th May, 2017

S.O. 1218.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 125/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 08.05.2017.

[No. L-41011/22/2013-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 17th February, 2017

Reference : (CGITA) No. 125/2013

1. The Divisional Railway Manager (Estt.),
Western Railway,
Pratapnagar,
Baroda (Gujarat)
2. The Sr. Divisional Electrical Engineer (Power),
Western Railway,
Pratapnagar,
Baroda (Gujarat)
3. The Sr. Section Engineer (P),
Western Railway,
Baroda (Gujarat)
4. The Sr. Section Engineer (RAC),
Western Railway,
Pratapnagar,
Baroda (Gujarat)

...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole, Nr. Kothi,
Baroda (Gujarat)

...Second Party

For the First Party : Shri Rajesh Singh Thakur

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/22/2013-IR(B-I) dated 05.07.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the Paschim Railway Karmachari Parishad, Baroda to cancel the promotion lists dated 16.11.2010 and 29.11.2010 and to give the posting to the employees, whose name was appeared in the promotion list is legal, proper and just? If so, to what relief the concerned workmen are entitled to?”

1. The reference dates back to 05.07.2013. The second party has not filed the statement of claim. Today on 17.02.2017, Shri R.S. Sisodia, The Divisional Secretary, Paschim Railway Karmachari Parishad has expressed unwillingness to prosecute the case and to withdraw the reference.
2. Therefore, the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 मई, 2017

का.आ. 1219.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 11/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.05.2017 को प्राप्त हुआ था।

[सं. एल-41011/104/2012-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 8th May, 2017

S.O. 1219.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 08.05.2017.

[No. L-41011/104/2012-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 17th February, 2017

Reference : (CGITA) No. 11/2013

1. The Divisional Railway Manager (Estt.),
Western Railway,
Pratapnagar,
Baroda (Gujarat)
2. The Asstt. Divisional Engineer (South),
Western Railway,
Pratapnagar,
Baroda (Gujarat)

...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole, Nr. Kothi,
Baroda (Gujarat)

...Second Party

For the First Party : Shri N.J. Acharya

For the Second Party : Shri R.S. Sisodia

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/104/2012-IR(B-I) dated 31.01.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the union to give the posting of lower category i.e. Safaiwala to Shri Amit Bharatbhai Solanki at any Section is legal, proper and just? If so, to what relief the concerned workman is entitled to?”

1. The reference dates back to 31.01.2013. The second party has not filed the statement of claim. Today on 17.02.2017, Shri R.S. Sisodia, The Divisional Secretary, Paschim Railway Karmachari Parishad has expressed unwillingness to prosecute the case and to withdraw the reference.
2. Therefore, the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 मई, 2017

का.आ. 1220.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1188/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.05.2017 को प्राप्त हुआ था।

[सं. एल-41012/106/2001-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 8th May, 2017

S.O. 1220.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1188/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 08.05.2017.

[No. L-41012/106/2001-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 23rd February, 2017

Reference : (CGITA) No. 1188/2004

The Divisional Railway Manager,
Western Railway, Kothi Compound,
Rajkot (Gujarat) – 360001

...First Party

V/s

The General Secretary,
Paschim Railway Karmachari Parishad,
209-E, Sarvottamnagar, Nr. New Railway Colony,
Sabarmati,
Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri Janak R. Pandya

For the Second Party : Shri B.K. Sharma

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/106/2001-IR(B-I) dated 27.12.2001/12.02.2002 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the denial of the Divisional Railway Manager, Western Railway, Rajkot in granting Hospital Leave to Shri Mohmed B. Nagori, Sr. Khallasi for the period from 08.06.1998 to 22.08.1998 while he remained under continuous treatment w.e.f. 04.06.1998 for his eye injury during the course and out of employment and also the denial of compensation for his eye injury are legal and justified? If not, what relief the concerned employee is entitled?”

1. The reference dates back to 27.12.2001/12.02.2002. The second party submitted the statement of claim Ex. 4 on 22.09.2003. The first party submitted the vakalatpatra Ex. 6 of his advocate Shri Janak R. Pandya on 13.01.2010 who did not prefer to submit the written statement till date. Therefore, on 16.09.2016, the tribunal ordered to proceed ex-parte against the first party and the reference was listed for 23.12.2016 for leading evidence by the second party. On 23.12.2016 and today on 23.02.2017, the second party workman and his union Paschim Railway Karmachari Parishad Ahmedabad did not appear to lead evidence. Thus it appears that the second party is not willing to prosecute the case.

2. Therefore, the reference is disposed of in the absence of the evidence of the second party with the observation as under: “the denial of the Divisional Railway Manager, Western Railway, Rajkot in granting Hospital Leave to Shri Mohmed B. Nagori, Sr. Khallasi for the period from 08.06.1998 to 22.08.1998 while he remained under continuous treatment w.e.f. 04.06.1998 for his eye injury during the course and out of employment and also the denial of compensation for his eye injury was legal and justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 मई, 2017

का.आ. 1221.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 769/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.05.2017 को प्राप्त हुआ था।

[सं. एल-12012/21/2002-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 8th May, 2017

S.O. 1221.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 769/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 08.05.2017.

[No. L-12012/21/2002-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 14th February, 2017

Reference : (CGITA) No. 769/2004

The Branch Manager,
State Bank of India,
Kevadia Colony Branch,
Narmada (Gujarat) – 393151

...First Party

V/s

Shri KanubhaiAndolbhaiParmar,
A-78, Opp. Government Hospital,
Taluka Nandod,
Kevadia Colony,
Narmada (Gujarat) – 393151

...Second Party

For the First Party : Shri D.C. Gandhi Associates

For the Second Party : Shri Sudhir Shah

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/21/2002-IR(B-I) dated 30.04.2002 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of State Bank of India through The Branch Manager, Kevadia Colony Branch, Distt. Narmada in terminating the services of Shri KanubhaiAndolbhaiParmar, Peon from 1993, is justified? If not, what relief the concerned workman is entitled?”

1. The reference dates back to 30.04.2002. The second party submitted the statement of claim Ex. 4 on 26.06.2003. The first party also submitted the written statement Ex. 9 on 18.06.2012. After receiving the reference from the Industrial Tribunal Ahmedabad, fresh notice was issued to both the parties to appear on 16.03.2011 but the second party failed to appear and to lead evidence despite giving number of opportunities. Thus it appears that the second party has not willing to prosecute the case.
2. Therefore, the reference is disposed of in the absence of the evidence of the remaining second party workmen with the observation as under: “the action of the management of State Bank of India through The Branch Manager, Kevadia Colony Branch, Distt. Narmada in terminating the services of Shri KanubhaiAndolbhaiParmar, Peon from 1993, is justified.”
3. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 मई, 2017

का.आ. 1222.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 989/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.05.2017 को प्राप्त हुआ था।

[सं. एल-41012/16/94-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 8th May, 2017

S.O. 1222.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 989/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 08.05.2017.

[No. L-41012/16/94-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 21st February, 2017

Reference : (CGITA) No. 989/2004

The Divisional Railway Manager,
Western Railway,
Ajmer Division,
Ajmer (Rajasthan)

...First Party

V/s

The General Secretary,
Western Railway Kamdar Sangh,
T.B.Z. 17, Gurnagar, Gandhidham,
Kutch (Gujarat) – 370201

...Second Party

For the First Party : Shri N.J. Acharya

For the Second Party : Shri R.S. Sisodia (as representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/16/94-IR(B-I) dated 30.11.1995 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the Western Railway Kamdar Sangh, Gandhidham for grant of temporary status and permanent/regular appointment to Shri Ramji Lal Bhorilal, Gangman working under PWI-BCO since 29.06.1986 continuously, valid, justified and legal? If so, to what benefits the workman is entitled?”

1. The reference dates back to 30.11.1995. In response to the notice, the second party workman Ramji Lal Bhorilal through General Secretary, Western Railway Kamdar Sangh submitted his statement of claim Ex. 2 alleging that he was engaged in Railway Service under permanent way Inspector, Bhachu in the year 1969-70 in broken period against the leave and sick vacancies. He had been working regularly/continuously since 29.06.1986 and continued to work till the filing of this statement of claim Ex. 2 on 09.01.1986 on daily wages rates. As per the orders of the Railway Ministry/Railway Board, it had been provided that the casual labour in open line section of the Indian Railway has to be granted temporary status on the completion of 4 months (120 days) continuous service but he was not granted the temporary status and was also denied of regular rate of wages, increments and paid holidays etc. He has further alleged that under the existing railway rules, the casual labour is required to appear before the standing committee for filing up the regular and permanent vacancies in every year. The casual labour junior to him had been screened and made permanent every year from 1986 till the filing of the statement of claim but he had been deprived of the said benefits. He made number of representations to the management through various channels but to no result. Thus he has prayed for following reliefs:

- i. To declare the action of the management in not granting the temporary status & making the workman permanent in the Railway Service as illegal & unlawful.
- ii. To order the management to grant the temporary status & make the workman as permanent in railway service with back effect & back wages.
- iii. To grant any other relief, order or direction which the Hon'ble Court may deems just fair and proper in favour of the second party workman.
- iv. First party be ordered to pay cost of reference to workman, amend and alter the statement of claim at any stage of the proceedings.

2. The first party submitted the written statement Ex. 5 on 05.12.1997 denied all the averments made in the statement of claim alleging that it is correct that after the completion of 120 days of service, casual labour is given temporary status but in this case, the workman has impersonated a man named Ramji Lal Bhorilal as the left thumb impression of this person was not matching with the real Ramji Lal Bhorilal, therefore, the matter was referred to the vigilance department for investigation. Thus on this vary ground, temporary status was not granted pending the vigilance investigation. It is further alleged that the western railway is not industry under Section 2 J of the Industrial Disputes Act, therefore, this tribunal has no jurisdiction to try this reference.

3. On the basis of the pleadings, following issues arise:

Issue No. i: Whether the demand of the Western Railway Kamdar Sangh, Gandhidham for grant of temporary status and permanent/regular appointment to Shri Ramji Lal Bhorilal, Gangman working under PWI-BCO since 29.06.1986 continuously is valid, justified and legal?

Issue No. ii: To what relief, if any, is the workman entitled?

4. The workman was examined on 04.03.1997 while pending in the Industrial Tribunal Rajkot. He was also cross-examined and he reiterated the averments made in the statement of claim. Nothing contrary was said by him in his examination/cross-examination.

5. On 25.06.2008, advocate Rakesh K.P. Sharma and on 03.02.2010 again the advocate Rakesh K.P. Sharma submitted his vakalatnama Ex. 11 and 15 respectively. But the first party failed to lead any oral evidence however submitted some documents like lodging of filing first information report in the police station on 17.09.2012 as a camouflage to the illegality and irregularity committed by the western railway.

6. The second party workman submitted his written argument Ex. 29, copy of same was received by advocate Rakesh K.P. Sharma.

7. I considered the argument. The disputes in the matter are very narrow. All the facts of employment and rule of continuous service of 120 days making the workman as temporary employee and thereafter for consideration of regularisation have been admitted by the first party western railway. Only thing which is to be adjudicated in this matter is that as to whether this workman impersonated the workman named Ramji Lal Bhorilal. It is noteworthy that the fact of impersonation came into light in 1986 but the fact does not reveal as to whether for such a long period what outcome of the investigation of the vigilance department as well as the police department came out. Thus I come to the conclusion that the defence of impersonation is nothing but a camouflage to the illegality committed by the Divisional Manager, Western Railway for the same his conduct is censured.

8. In the light of the aforesaid discussion, I come to the conclusion that the workman has been illegally, without valid and just reasons is denied the temporary status as well as permanent status. Thus this issue no. i is decided accordingly.

9. The workman be given due benefits of temporary or permanent status as per the rules with retrospective effect.

10. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 मई, 2017

का.आ. 1223.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1371/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.05.2017 को प्राप्त हुआ था।

[सं. एल-12012/121/2001-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 8th May, 2017

S.O. 1223.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1371/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 08.05.2017.

[No. L-12012/121/2001-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 15th February, 2017

Reference : (CGITA) No. 1371/2004

1. The Chief General Manager,
State Bank of India, L.H.O.,
Bhadra, Lal Darwaja, Ahmedabad
2. The Regional Manager,
State Bank of India, Paradise Complex, Sayajigunj,
Baroda – 390005
3. The Manager,
State Bank of India,
Timalya Wad Branch, Timalya Wad,
Surat (Gujarat)
4. The Manager,
State Bank of India,
Service Branch, Second Floor,
Akshar Complex, Behind Rang Upuvan,
Nanpura, Makaipul,
Surat (Gujarat) – 395003

...First Party

V/s

Shri Dineshchandra Manilal Maisuriya,
Suthar Falia, at & Post Amari, Taluka,
Navsari (Gujarat)

...Second Party

For the First Party : Shri B.K. Oza

For the Second Party : Shri P.F. Baxi

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/121/2001-IR(B-I) dated 16.10.2001 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the concerned workman Shri Dineshchandra Manilal Maisuriya has put in ‘continuous service’ in the bank as per provisions of Section 25-B? If so, whether the action of the management of State Bank of India, Ahmedabad through its officers in terminating the services of the workman Shri Dineshchandra Manilal Maisuriya w.e.f. 31.01.1997 with the plea of abolition/cancellation of the waiting list of temporary employees is justified? If not, what relief the concerned workman is entitled?”

1. The reference dates back to 16.10.2001. The second party submitted the statement of claim Ex. 10 on 16.02.2002. The first party submitted the written statement Ex. 13 on 07.01.2003 along with the documents vide list Ex. 14. The reference was transferred to this tribunal on 15.01.2008 after its creation by the Government of India. Since then the second party has been absent, therefore, on 24.12.2010, notice was issued to both the parties to appear on 22.02.2011 but since then the second party has been absent to lead evidence. Thus it appears that the second party has not been willing to prosecute the reference.
2. Thus, in the absence of the evidence of the second party workman, the reference is disposed of with the observation as under: “the action of the management of State Bank of India, Ahmedabad through its officers in terminating the services of the workman Shri Dineshchandra Manilal Maisuriya w.e.f. 31.01.1997 with the plea of abolition/cancellation of the waiting list of temporary employees is justified.”
3. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 मई, 2017

का.आ. 1224.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 74/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.05.2017 को प्राप्त हुआ था।

[सं. एल-41012/171/2004-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 8th May, 2017

S.O. 1224.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 74/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 08.05.2017.

[No. L-41012/171/2004-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 28th March, 2017

Reference : (CGITA) No. 74/2005

The Divisional Railway Manager,
Western Railway,
Railwaypura, Kalupur,
Ahmedabad (Gujarat)

...First Party

V/s

Om Shakti Labour Association,
Opp. Hudco Indira Vasahat,
Singarva Road,
Nr. Bhuriba School, PO Chinubhainagar,
Ta – Daskroi,
Ahmedabad (Gujarat) – 382430

...Second Party

For the First Party :

For the Second Party : Shri K.K. Rathod

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/171/2004-IR(B-I) dated 26.08.2005 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Western Railway for non-regularisation of the services of Shri M.M. Nayak, Senior TC for the period from 25.06.2003 to 18.06.2004 and down gradation of scale due to D.A.R. case is legal and justified? If not, what relief the disputant is entitled to and to what extent?”

1. The reference dates back to 26.08.2005. The second party union Om Shakti Labour Association submitted the statement of claim Ex. 4 on 12.12.2005 along with number of documents. Despite service on the first party, the first

party did not prefer to submit the written statement till 27.06.2016 after giving number of last opportunities to file written statement. Therefore, on 27.06.2016, the reference was ordered to proceed ex-parte against the first party but the second party did not prefer to lead evidence.

2. Thus the reference in the absence of the evidence of the second party is disposed of with the observation as under: “the action of the management of Western Railway for non-regularisation of the services of Shri M.M. Nayak, Senior TC for the period from 25.06.2003 to 18.06.2004 and down gradation of scale due to D.A.R. case is legal and justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 मई, 2017

का.आ. 1225.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफसीआई के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, कोटा के पंचाट (संदर्भ सं. 23/1997) को प्रकाशित करती है जो केन्द्रीय सरकार को 04.05.2017 को प्राप्त हुआ था।

[सं. एल-22012/166/1994-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 8th May, 2017

S.O. 1225.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 23/1997) of the Labour Court, Kota as shown in the Annexure in the Industrial Dispute between the management of FCI and their workmen, received by the Central Government on 04.05.2017.

[No. L-22012/166/1994-IR (CM-II)]

RAJENDER SINGH, Section Officer

अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण (केन्द्रीय) कोटा, (राज.)

पीठासीन अधिकारी— श्री जगमोहन शर्मा, आर.एच.जे.एस.

निर्देश प्रकरण क्रमांक : औ.न्या.(केन्द्रीय)—23/1997

दिनांक स्थापित : 21/11/97

प्रसंग : भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश

कं.एल-22012/166/94-आईआर(सी-II) दिनांक 1/6/95 एवं सपठित अग्रेषण पत्र दि. 1/9/97 तथा 16/12/98

निर्देश/विवाद अन्तर्गत धारा 10(1)(घ) एवं उपधारा 2(क)

औद्योगिक विवाद अधिनियम, 1947

मध्य

नारायण पुत्र किशनलाल बैरवा वगैरह कुल 11 श्रमिकगण।

—प्रार्थीगण श्रमिक

एवं

जिला प्रबन्धक, भारतीय खाद्य निगम कोटा, भण्डारण सवाईमाधोपुर (राज.)।

—अप्रार्थी नियोजक

उपस्थित :

प्रार्थीगण श्रमिक की ओर से प्रतिनिधि : श्री डी.आर.द्विवेदी

अप्रार्थी नियोजक की ओर से प्रतिनिधि : श्री सी.बी.सोरल

अधिनिर्णय दिनांक: 24/3/2017

::अधिनिर्णय::

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के प्रासांगिक आदेश दिनांक 1/6/95 एवं सपठित अग्रेषण पत्र दि.1/9/97 तथा 16/12/98 के जरिये निम्न निर्देश विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त "अधिनियम" से सम्बोधित किया जावेगा) की धारा 10(1)घ) एवं उपधारा 2(क)के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है:-

"क्या भारतीय खाद्य निगम भण्डारण, सवाई माधोपुर प्रबन्धक द्वारा निम्नलिखित कर्मकारों को ठेका श्रमिक पर काम पर न लेने की कार्यवाही उचित एवं न्यायसंगत है। यदि नहीं तो संबंधित कर्मकार किस अनुतोष के हकदार हैं और किस तारीख से?

नाम श्रमिकगण

- 1- श्री नारायण पुत्र श्री किशनलाल बैरवा
- 2- श्री बाबूलाल पुत्र श्री राम नारायण बैरवा
- 3- श्री हीरालाल पुत्र श्री मांगीलाल बैरवा
- 4- श्री जगदीश प्रसाद पुत्र श्री मांगीलाल बैरवा
- 5- श्री हनुमान प्रसाद पुत्र श्री श्योराम बैरवा
- 6- श्री रेवड्या पुत्र छीतर हरीजन
- 7- श्री रामजीलाल पुत्र श्री कजोड़मल
- 8- श्री चिरंजीलाल पुत्र किशनलाल बैरवा
- 9- श्री जगदीश प्रसाद पुत्र श्री मांगीलाल
- 10- श्री बाबूलाल मीना पुत्र श्री बद्रीलाल मीना
- 11- श्रीमती विमला देवी पत्नी, पुत्र अमर, पुत्रियां किरण व ज्योति
कायममुकामान आत्मज नरेन्द्र कुमार पुत्र बद्रीलाल बैरवा
मृतक श्रमिक"

2- निर्देश/विवाद, न्यायाधिकरण में प्राप्त होने पर पंजीबद्ध उपरान्त पक्षकारों को सूचना/नोटिस जारी कर विधिवत अवगत करवाया गया।

3- निर्देश/रेफ्रेन्स के साथ संलग्न सूची अनुसार हस्तगत निर्देश नारायण वगैरह कुल 11 प्रार्थीगण श्रमिक के सम्बन्ध में न्यायाधिकरण को अधिनिर्णयार्थ प्राप्त हुआ है, जिस सम्बन्ध में प्रार्थीगण की ओर से प्रस्तुत क्लेम स्टेटमेन्ट में वर्णितानुसार वे अप्रार्थी भारतीय खाद्य निगम के खाद्य संग्रालय, रणथम्भौर रोड़, सवाईमाधोपुर में वर्ष 1986 से श्रमिक/कर्मकार के रूप में नियोजित थे जो वर्ष 1993 तक गेहू के गोदामों में भराई का काम करते थे तथा अप्रार्थी के यूनिट इन्चार्ज ही उनकी उपस्थिति अंकित करते थे और उपस्थिति के आधार पर श्रमिकों का वेतन भुगतान ठेकेदार के द्वारा कराया जाता था, किन्तु ठेकेदार प्रार्थीगण श्रमिक को उनके अधिकारों से वंचित करने हेतु नामधारी व्यक्ति था। प्रार्थीगण श्रमिक को वर्ष 86 तक लगातार नियोजित रखकर, भुगतान का तरीका बदलकर बिना नोटिस व मुआवजा दिये अधिनियम की धारा 25-एफ व अन्य आज्ञापक प्रावधानों की अवहेलना कर सेवा से हटा दिया गया जो सेवा से हटाया/पृथक किया जाना उचित नहीं है तथा नये श्रमिकों को काम पर लगाना अनुचित श्रम आचरण है। अन्त में प्रार्थीगण श्रमिक को उक्त प्रकार से सेवा से हटाया जाना अनुचित घोषित करते हुए पिछले सम्पूर्ण वेतन, लाभों व सेवा की निरन्तरता सहित पुनः सेवा में बहाल किये जाने की प्रार्थना की गयी है।

4- उपरोक्त क्लेम स्टेटमेन्ट का जवाब प्रस्तुत कर अप्रार्थी की ओर से कथन किया गया है कि उनके द्वारा प्रार्थीगण को कभी नियोजन में नहीं रखा गया, ऐसी स्थिति में उनके मध्य कोई औद्योगिक विवाद उत्पन्न होने का प्रश्न उत्पन्न नहीं होता। प्रार्थीगण अधिनियमान्तर्गत कर्मकार की परिभाषा में भी नहीं आते हैं। प्रार्थीगण द्वारा अपने क्लेम में कार्य पर रखे जाने या हटाये जाने की कोई निश्चित तिथि भी नहीं बतलायी गयी है, ना उन्हें अप्रार्थी द्वारा कभी कोई नियुक्ति अथाव हटाने का कोई पत्र/आदेश ही दिया गया है। अप्रार्थी के यहाँ खाद्यान को लादने/उतारने व परिवहन आदि का कार्य ठेकेदार पद्धति आधार पर सम्पादित होता है जिस हेतु अप्रार्थी निगम द्वारा दो साल के लिए दि.18/4/92 से मै.बंसल इन्टरप्राइजेज को अनुबंधित किया हुआ था जिसके विरुद्ध प्रार्थीगण द्वारा विवाद नहीं उठाये जाने से मामला स्वतः ही निरस्तनीय रहा है। अन्त में क्लेम प्रार्थीगण निराधार तथ्यों का होने से सव्यय निरस्त किये जाने की प्रार्थना की गयी है।

5- यहाँ यह उल्लेखित किया जाना समीचीन व उपयुक्त है कि हस्तगत निर्देश/रेफ्रेन्स के साथ संलग्न प्रार्थी श्रमिकगणों की सूची में क्रम सं.11 पर अंकित प्रार्थी श्रमिक नरेन्द्र कुमार की दौरान विचारण मृत्यु हो जाने से उसके विधिक वारिसान की प्रार्थना-पत्र पर आदेशिका दि.7/4/2001 में वर्णितानुसार उसकी पत्नी विमला देवी, पुत्र व पुत्रियाँ क्रमशः अमर, किरण व ज्योति को अभिलेख पर प्रार्थीगण के रूप में संस्थित किया गया।

6— साक्ष्य में प्रार्थीगण चिरंजीलाल, जगदीश प्रसाद बैरवा पुत्र मांगीलाल, नारायण, बाबूलाल पुत्र बट्टीलाल, रामजीलाल, हनुमान प्रसाद, जगदीश प्रसाद पुत्र मांगीलाल, बाबूलाल पुत्र रामनारायण, हीरालाल, रेवड्या तथा अप्रार्थी पक्ष की ओर से साक्षी जौहरीलाल मीणा, प्रबन्धक के शपथ-पत्र प्रस्तुत हुए हैं, जिनसे दोनों पक्षों के प्रतिनिधिगण एक-दूसरे पक्ष के शपथ-पत्रों पर जिरह की गयी। प्रार्थी पक्ष की ओर से प्रलेखीय साक्ष्य प्रस्तुत की गयी, अप्रार्थी पक्ष की ओर से कोई प्रलेखीय साक्ष्य प्रस्तुत नहीं हुई।

7— विद्वान प्रतिनिधिगण पक्षकारान की बहस अन्तिम सुनी गयी, उनकी ओर से लिखित बहस भी प्रस्तुत की गयी, जिसका तथा पत्रावली का अवलोकन किया गया। दौरान बहस न्यायाधिकरण के समक्ष यह तथ्य जानकारी में आया है कि सम्प्रेषित निर्देश/रेफ्रेन्स में अप्रार्थी द्वारा प्रार्थीगण कर्मकारों को ठेका श्रमिक पर किस तिथि को काम पर न लेने की कार्यवाही की गयी, उस तिथि का कोई उल्लेख नहीं है। अतः यह स्थिति स्पष्ट नहीं है कि यह न्यायाधिकरण अप्रार्थी द्वारा प्रार्थीगण कर्मकारों को ठेका श्रमिक पर काम पर न लेने की कौनसी तिथि मानकर अप्रार्थी के कृत्य की उचितता एवं वैधता का विनिश्चय करेगा? इस सम्बन्ध में माननीय राज. उच्च न्यायालय द्वारा पारित न्यायदृष्टांत "2003 डब्ल्यू.एल.सी.(राज.) यू.सी. पृष्ठ 424— महावीर कण्डक्टर बनाम नन्दकिशोर" में यह प्रतिपादित किया गया है कि सेवाओं के पर्यवसान की तिथि का रेफ्रेन्स में उल्लेख नहीं होने से श्रम न्यायालय किसी कर्मकार के कथनानुसार पर्यवसान की तिथि को स्वीकार कर निर्देश/रेफ्रेन्स की शर्तों में सुधार, संशोधन या उपान्तरण करने में सक्षम नहीं है एवं ना ही न्यायालय को पक्षकारों की सहमति से ऐसी अधिकारिता प्राप्त होती है। अतः माननीय उच्च न्यायालय द्वारा निर्देश/रेफ्रेन्स में कर्मकार की सेवा पर्यवसान की तिथि वर्णित नहीं होने से अधिनिर्णय को अपास्त कर दिया गया। इस उक्त न्यायनिर्णय में प्रतिपादित सिद्धांत के अनुसार जहाँ निर्देश/रेफ्रेन्स में सेवा से हटाने, मुक्त करने या पृथक करने की तिथि का अंकन नहीं है तो श्रम न्यायालय को उस तिथि को सही करने या संशोधन करने की अधिकारिता पक्षकारों द्वारा ऐसी तिथि सुझावित किये जाने पर भी प्राप्त नहीं हो जाती है। अर्थात् यदि निर्देश में सेवा से मुक्ति, पृथक या हटाने की तिथि का कोई अंकन नहीं है व दोनों ही पक्षकार ऐसी तिथि यदि बता भी देते हों तो भी श्रम न्यायालय को उस बतायी गयी तिथि को मानकर उसके आधार पर निर्देश/रेफ्रेन्स उत्तरित करने का अधिकार प्राप्त नहीं हो जाता है। इस न्यायनिर्णय के पैरा सं.11 में माननीय उच्चतम न्यायालय द्वारा "मदनपालसिंह बनाम उत्तर प्रदेश राज्य व अन्य—एआईआर 2000 एस.सी. 537" के निर्णय को विवेचित किया गया है तथा अन्त में यह निष्कर्ष निकाला गया कि श्रम न्यायालय निर्देश में वर्णित बिन्दुओं तक ही सीमित क्षेत्राधिकार रखता है एवं उसको पक्षकारों के नामों में निर्देश से परे जाकर संशोधन आदि का अधिकार प्राप्त नहीं होता। यदि नामों या तिथि आदि में कोई परिवर्तन या अंकन कराना है तो पक्षकारों को समुचित सरकार के समक्ष इस बाबत पक्ष रखकर उसमें संशोधन कराना होगा, परन्तु श्रम न्यायालय को ऐसा संशोधन करने की अधिकारिता नहीं है। अतः इसी निर्णय को आधार मानते हुए माननीय उच्च न्यायालय द्वारा उक्त मामले में श्रम न्यायालय द्वारा पारित अधिनिर्णय को क्षेत्राधिकार के अभाव का मानते हुए अपास्त कर दिया गया।

8— अब यह न्यायाधिकरण हस्तगत निर्देश/रेफ्रेन्स में अप्रार्थी द्वारा प्रार्थीगण कर्मकारों को ठेका श्रमिक पर काम पर न लेने की कौनसी तिथि मानकर अप्रार्थी के उक्त कृत्य की उचितता एवं वैधता का विनिश्चय करेगा तथा क्या यह न्यायाधिकरण पक्षकारों द्वारा सुझायी गयी तिथि मानकर प्रकरण का गुणावगुण पर विनिश्चय कर सकता है अथवा निर्देश/रेफ्रेन्स में संशोधन करने की अधिकारिता रखता है? इस सम्बन्ध में माननीय राजस्थान उच्च न्यायालय द्वारा पारित उक्त न्यायदृष्टांत "2003 डब्ल्यू.एल.सी.(राज.) यू.सी. पृष्ठ 424—महावीर कण्डक्टर बनाम नन्दकिशोर" के पैरा संख्या 12 का उल्लेख किया जाना न्यायसंगत है जिसमें माननीय उच्च न्यायालय द्वारा रेफ्रेन्स के निबन्धन या सेवा समाप्ति तिथि में संशोधन आदि बाबत निम्न स्थिति प्रकट की गयी है:-

"Thus, in view of the above, I reach the inescapable conclusion that the Labour Court has no competence to correct/modify/amend/alter the terms of the reference or mention the date of termination etc., or proceed with the reference and accepting the date of termination as suggested by the workman and in case it does so, the award becomes nullity, being without jurisdiction, based on the bad reference."

9— अतः माननीय राज. उच्च न्यायालय द्वारा पारित उपरोक्त न्यायदृष्टांत के प्रकाश में हस्तगत मामले में यह न्यायालय पक्षकारों द्वारा सुझायी गयी तिथि/नाम आदि को संशोधित तिथि/नाम मानकर प्रकरण को गुणावगुण पर निस्तारित किये जाने की अधिकारिता नहीं रखता है। इस प्रकार माननीय उच्चतम एवं माननीय उच्च न्यायालय द्वारा ऊपर विवेचित किये गये न्यायनिर्णयों में प्रतिपादित सिद्धांतों के अनुसार हस्तगत प्रकरण में इस न्यायाधिकरण को ऐसे पक्षकारों का संशोधन प्रस्ताव स्वीकार किये जाने की अधिकारिता नहीं होने से इस न्यायाधिकरण की राय में यह न्यायाधिकरण यदि कोई अधिनिर्णय पारित भी करता है तो वह क्षेत्राधिकार के अभाव का होकर शून्य होगा। इन न्यायनिर्णयों के खण्डन में या अन्य कोई न्यायनिर्णय ऐसा पेश भी नहीं किया गया जिसमें कि ऊपर वर्णित स्थिति होने के बावजूद भी न्यायालय को निर्देश अधिनिर्णित करने का अधिकार प्राप्त हो। अतः कुल मिलाकर स्थिति उक्त न्यायनिर्णयों के ही अभी तक प्रभावशील होने की पायी जाती है। माननीय उच्च न्यायालय एवं माननीय उच्चतम न्यायालय द्वारा पारित उक्त न्यायनिर्णयों में प्रतिपादित सिद्धांतों से यह न्यायाधिकरण आबद्ध है। अतः ऐसी परिस्थिति में सम्पूर्ण विवेचन के उपरान्त इस न्यायाधिकरण की राय में इतना ही कहना पर्याप्त है कि हस्तगत निर्देश/रेफ्रेन्स में अप्रार्थी द्वारा प्रार्थीगण कर्मकारों को ठेका श्रमिक पर किस तिथि को काम पर नहीं लिया गया है, ऐसी तिथि का कोई अंकन नहीं होने से यह न्यायाधिकरण ऐसे निर्देश में कोई संशोधन कर अधिनिर्णय पारित करने की अधिकारिता नहीं रखता है एवं यदि पक्षकार सक्षम सरकार से इस बाबत निर्देश/रेफ्रेन्स में संशोधन कराकर न्यायाधिकरण में पेश करते हैं तो न्यायाधिकरण ऐसा संशोधन प्राप्त होने पर प्रकरण में विधि अनुसार कार्यवाही कर सकेगा, परन्तु इस प्रक्रम पर फिलहाल यह मामला इस न्यायाधिकरण के क्षेत्राधिकार के अभाव का पाया जाता है।

परिणामस्वरूप भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा प्रासांगिक आदेश दिनांक 1/6/95 एवं सपठित अग्रेषण पत्र दि. 1/9/97 तथा 16/12/98 के जरिये सम्प्रेषित निर्देश/रेफ्रेन्स विवाद को इसी अनुरूप उत्तरित किया जाता है कि माननीय राजस्थान उच्च न्यायालय द्वारा पारित उक्त न्यायदृष्टांत "2003 डबल्यू.एल.सी.(राज.) यू.सी. पृष्ठ 424—महावीर कण्डक्टर बनाम नन्दकिशोर" में प्रतिपादित सिद्धांत के अनुसरण में हस्तगत निर्देश/रेफ्रेन्स में वर्णित नारायण वगैरह कुल 11 प्रार्थीगण कर्मकारों को अप्रार्थी नियोजक द्वारा कौनसी तिथि को ठेका श्रमिक पर काम पर न लेने की कार्यवाही गयी है, ऐसी तिथि का कोई अंकन नहीं होने से व इस न्यायाधिकरण को पक्षकारों द्वारा सुझायी गयी तिथि को स्वीकार किये जाने की अधिकारिता नहीं होने से हस्तगत निर्देश/रेफ्रेन्स में अधिनिर्णय पारित किया जाना शून्य एवं क्षेत्राधिकार के अभाव का होगा। पक्षकार यदि सक्षम सरकार से उक्त तिथि बाबत निर्देश/रेफ्रेन्स में संशोधन/अंकन कराकर न्यायाधिकरण के समक्ष पेश करेंगे तो न्यायाधिकरण गुणावगुण के आधार पर विधि अनुसार आगे प्रकरण के निस्तारण की कार्यवाही कर सकेगा। के जरिये सम्प्रेषित निर्देश/रेफ्रेन्स विवाद को इसी अनुरूप उत्तरित किया जाता है।

जगमोहन शर्मा, न्यायाधीश

शुद्धिपत्र

नई दिल्ली, 9 मई, 2017

का.आ. 1226.—भारत के राजपत्र संख्या (का.आ 637), भाग—II, खंड—3, उप खंड—ii दिनांक 05—11 मार्च, 2017 में प्रकाशित इस कार्यालय की समसंख्यक (संख्या एस—38013/06/2017.एस.एस.—I) अधिसूचना के पृष्ठ संख्या. 1339 हिंदी में उल्लिखित क्रम संख्या 4 में म्युनिसिपल क्षेत्र पलामू लिखा गया था के जगह म्युनिसिपल क्षेत्र मेदिनीनगर पढ़ा जाए :—

[संख्या एस—38013/06/2017—एस.एस.—I]

अजय मलिक, अवर सचिव

नई दिल्ली, 9 मई, 2017

का.आ. 1227.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 60/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.05.2017 को प्राप्त हुआ था।

[सं. एल—12012/271/93—आईआर (बी—I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 9th May, 2017

S.O. 1227.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 60/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 09.05.2017.

[No. L-12012/271/93-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 23rd March, 2017

Reference : (CGITA) No. 60/2004

The Regional Manager,
State Bank of India,
Regional Office, C.N. Vidhyalaya Road,
Ambavadi,
Ahmedabad (Gujarat) – 380001

...First Party

V/s

Shri Santoshkumar H. Tiwari,
Amaraji Nagar, Room No. 559/2,
Nr. Defence Colony, Kubernagar,
Ahmedabad (Gujarat) – 380001

...Second Party

For the First Party : Shri M.J. Sheth

For the Second Party : Shri Prashant Chaudhary

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/271/93-IR(B-I) dated 16.01.1998 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of management of State Bank of India, Ahmedabad in terminating the services of Shri Santoshkumar H. Tiwari is legal and justified? If not, to what relief the workman is entitled to?”

1. The reference dates back to 16.01.1998. In response to the notice issued by the tribunal, the second party workman submitted his statement of claim Ex. 2 on 26.03.1998 and the first party management submitted his written statement Ex. 8 on 23.02.1999.

2. The second party workman in his statement of claim Ex. 2 alleged that the first party bank recruited large number of employees and simultaneously also terminated the services of the existing employees under the garb of Badli employees in utter violation of Section 25 G and H of Industrial Disputes Act, 1947. The service conditions of the employee in the banking industry are always governed by Sastri/Desai Awards and neither of these awards permits engagement of Badli workmen. The so called Badli workmen worked uninterruptedly but the bank management applied artificial intermittent brakes with a view to avoid various fringe benefits. It is noteworthy that this workman had been working for a period since 1990 to 1991 as sub-staff on temporary basis in State Bank of India, Maninagar Branch till 12.06.1991. The branch manager of the said branch also issued an experience certificate dated 15.05.1991 for the work done during the aforesaid period which is enclosed herewith this statement of claim. He has further alleged that various trade unions in the State Bank of India were agitating for absorption/regularisation of the temporary employees who were put in minimum 60 days of service. Therefore, the bank management took a decision to conduct the written examination cum interview for the purpose of absorption of temporary/Badli employees who have worked for minimum 60 days. The workmen approach the branch manager at the time of terminating of his service for asking the reasons of termination more particularly when worked was very much available and existing and new hands were recruited on temporary casual basis to do the same job which he was performing. The branch manager did not give a satisfactory and verbally informed that bank has taken the decision not to allow any workman to work for a considerable long period with a view to avoid the claims for regularisation/absorption. He was also informed that he will be given a reasonable opportunity in the written test to qualify for regular absorption in the bank and advertisement appeared in the newspaper asking the temporary/Badli/casual candidates to apply for regularisation or absorption. He submitted the application for regularisation but he was not considered, thus, non-consideration of his application makes his a case of constructive termination of employment without any notice in writing or notice pay in lieu thereof. He has further alleged that the Desai awards governing the service conditions of the bank employee stipulated that the services of the temporary employee can only be terminated by 7 days' notice and if a temporary employee wishes to leave, the employment he also has to give 7 days' notice or deposit 7 days' pay leave thereof. The management kept the matter waiting for consideration for regularisation/absorption but his case was not considered. Therefore, he moved for conciliation proceedings and therefore, the present reference. He has further alleged that termination of his service and denial of absorption is illegal and against the law provided under Section 25 F, G and H of the Industrial Disputes Act. Thus he has prayed for reinstatement with back wages with all fringe benefits like leave, bonus, gratuity, provident fund and other perks and perquisites.

3. The first party management State Bank of India in his written statement denied all the averments made in the statement of claim saying that the reference being non-maintainable and liable to be dismissed. It has also been submitted that the settlement dated 27.10.1988 entered into between State Bank of India and All India State Bank of India Federation under Section 2 (P) of the Industrial Disputes Act, proposing to give a chance for consideration for permanent appointment in the bank service against full time and part time vacancies including messengers/farrashes/Cash Coolies/Sweepers and Bank Guard etc. who were paid daily wages on mutually agreed basis and who were put in minimum 240 days temporary service in any continuous block of 12 calendar months or less, or 270 days aggregate service in any continuous block of 36 calendar months or 30 days aggregate temporary service in

any calendar year or minimum of 70 days temporary service in block of 36 calendar months after 01.07.1975 and up to 31.07.1988 at any one or more branches/offices under a module(regional office) as existing or defined as on 31.07.1988. Accordingly an advertisement was published in the leading newspapers on 01.05.1991 asking all the daily wagers who fulfil the aforesaid eligibility criteria to submit the application for the regularisation/absorption. The applicants were advised in the advertisement that the eligible daily wagers will be interviewed and those found suitable will be waitlisted and appointments will be offered in the nature of full time and part time as per the availability of the vacancies in the year 1995 and 1996 and this wait list will remain valid up to 1996. Subsequently, on 20.08.1991, the eligibility date was extended up to 14.08.1991 thus the daily wagers who put in requisite period of temporary service on daily wage basis for the period from 01.07.1975 to 14.08.1998 were made eligible to apply. It is admitted that this workman worked in full time capacity as a badli watchman for 88 days in the year from 1990 to 1991 and he submitted an application despite the fact that he was not a daily wager and did not fulfil the requisite criteria of eligibility, therefore, his application was rejected being not eligible for the consideration. It is wrong to say that his application was rejected in the grab of badly employee and his services were terminated in violation of the Section 25 F, G and H of the Industrial Disputes Act, 1947. Thus the action of the bank was not discriminatory, unfair, unjust, improper and illegal. Therefore, the reference has no force and liable to be dismissed.

4. The statement of claim is annexed with the copy of the reference, a judgement of the High Court dated 23.12.1997, a certificate issued by the State Bank of India, Maninagar Branch showing that in the year 1989 he worked for 18 days and in the year 1990, he worked for 70 days and in the month of January and February, he worked for 6 days.

5. The written statement is enclosed with the copy of the settlement, copy of the notice for inviting applications from daily wages workmen etc.

6. On the basis of the pleadings, following issues arise:

Issue No. i : Whether the action of management of State Bank of India, Ahmedabad in terminating the services of Shri Santoshkumar H. Tiwari is legal and justified?

Issue No.ii : To what relief, if any, is the workman entitled?

7. Both the parties submitted their written arguments Ex. 21 and 22 respectively.

8. **Issue No. i & ii :** The burden of prove of this issue was lying on the second party workman who in his statement on oath Ex. 16 stated that he joined as reliever watchman in Maninagar Branch of State Bank of India on 14.07.1990 on daily wages at the rate of Rs. 55/- per day, thereafter, Rs. 60/- per day and lastly when he was relieved by an oral order at the rate of Rs. 65/-. He was not given any notice or notice pay at the time of relieving/terminating. He tried to find a job after termination but failed to obtain any employment. He applied to be appointed as permanent employee in State Bank of India but he was not called for interview. Another man was appointed in his place after his termination. He was issued a certificate Ex. 4/4 duly signed and issued by the branch manager of Maninagar Branch of State Bank of India showing that in the year 1989 he worked for 18 days and in the year 1990, he worked for 70 days and in the month of January and February, he worked for 6 days. In his cross-examination, he reiterated that he had been working as full time reliever watchman when the permanent watchman absents from duty. He also stated that he was paid wages for performing duty as reliever in the absence of a permanent watchman. He further stated that in the bank, daily wager workman and permanent employee are be engaged. The bank has not given certificate for working. The certificate for his working in his last 2 months up to 15th May of 1991 but it is true that these certificates have given him as reliever watchman. He was not a daily wager. He had been given wages for the days during which he performed duty. The opposite first party did not prefer to give any oral or documentary evidence in rebuttal.

9. The bank vide index Ex. 9 submitted the copy of the settlement dated 27.10.1988, the copy of the notice/advertisement for recruitment of daily wagers and the work experience of one Ramesh Pratap Singh as badli watchman who is not a party in the case instead of submitting the work experience certificate of this workman Santosh Kumar S. Tiwari. Thus in the said circumstances, it can be said that the work experience certificate Ex. 4/4 regarding 94 working days of this second party workman can be said to be true as the rebuttal has not been filed.

10. The advocate of the second party argued that this workman worked for 94 days in 19 months in the year from August 1989 to February 1991. On the basis of these working days period, the advocate argued that as per the settlement and advertisement, he was eligible to be called for interview on the ground that eligibility criteria of the temporary employee was based on the working of daily wages employees who have worked as follows: “(i) 240 days’ temporary service in 12 months or less after 01.07.1975 or (ii) 270 days’ aggregate temporary service in any continuous block of 36 calendar months after 01.07.1975 or (iii) a minimum of 30 days’ aggregate temporary service in any calendar year after 01.07.1975 or 70 days’ aggregate temporary service in any continuous block of 36 calendar months after 01.07.1975.”

11. The advocate for the first party countered the arguments of the second party workman vide his argument Ex. 22 on the ground that the second party workman was not in temporary service of the bank. He was simply a badli watchman on the daily wage basis, therefore, the discontinuation of his service does not violate the provisions of Section 25 of F, G and H of the Industrial Disputes Act, 1947 but he has admitted in his argument that as per the settlement, any adopt employee or employee on fix remuneration basis against leave/casual vacancies of messengers/farrashes/cashcoolies/water boy/sweeper/bodyguards etc. having worked for 38 days' aggregate temporary service in any calendar year after 01.07.1975 or 70 days' aggregate temporary employee in any continuous block of 36 calendar months after 01.07.1975 was eligible for consideration for regularisation as per the settlement. In the present case, the second party workman has worked for 94 days in 36 block months and 30 days in one calendar year.

12. The only question remains to be resolved that whether badli employees were eligible for appointment on permanent basis or not. In Ram N. Ravat V/s Ashwani Ray 2017 1 CLR 658 the apex court observed as under:

“(5) Learned counsel who appeared for these petitioners have drawn our attention to the relevant provisions of the standing orders on the basis of which they were classified as permanent. It is standing order no. 2 which deals with classification of the employees and reads as under:

“2. Classification of Employees – Employees shall be classified as (i) permanent, (ii) permanent seasonal, (iii) probationers, (iv) badlies, (v) apprentices, and (vi) temporary.

- (i) A ‘permanent’ employee is one who has completed six months’ satisfactory service in a clear vacancy in one or more posts whether as a probationer or otherwise, or a person whose name has been entered in the muster roll and who is given a ticked of permanent employee.
- (ii) A ‘permanent seasonal employee’ is one who has completed service for a period equal to 2/3rd of the duration or a season or three months whichever is less in a clear vacancy and shall be deemed to be a permanent employee for the purpose of these order.
- (iii) A ‘probationer’ means an employee who is provisionally employed to fill a clear vacancy, and who has not completed six months’ satisfactory service in the aggregate.
- (iv) A ‘badli’ employee means an employee who is employed on the post of a permanent seasonal employee, or a probationer or a permanent seasonal employee who is temporary absent.**
- (v) An ‘apprentice’ means a learner, provided that no employee shall be classified as an apprentice if he has had training for an aggregate period of one year provided further that a longer period of apprenticeship shall be required if prescribed by a law or an award, or by agreement with the representative of employees.
- (vi) ‘Temporary employee’ means an employee who has been employed for work which is essentially of a temporary character, or who is temporarily employed as an additional employee in connection with the temporary increase in the work of a permanent nature, provided that in case such employee is required to work. Continuously for more than six months he shall be deemed to be a permanent employee, within the meaning of clause (i) above.”

(6) Once the labour court classified them as permanent, which classification had attained finality, it necessarily follows that they are entitled to all benefits which are to be given to regularly appointed employees.”

13. The advocate for the first party concentrated his arguments only on the point that this workman was a badli employee, therefore, his retrenchment was violative of the provisions of Section 25 F, G and H of the Industrial Disputes Act, 1947 and also that he being a badli employee was not eligible to be considered for regularisation as per the settlement. These arguments have no force because in Ram N. Ravat Case (Supra), the definition of the badli employee is very much defined who are always employed on the post of a permanent seasonal employee or a probationer or a permanent seasonal employee who is temporary absent. Thus the arguments that the badli employees were not eligible, has no force.

14. The second party workman has proved that he worked for more than 30 days in 12 calendar months and 94 days in 36 block months which are not countered by way of rebuttal by the first party bank management.

15. Thus, in the light of the above reasons, second party workman was eligible for consideration for regularisation for the permanent post and he was illegally denied the said opportunity to be considered for regularisation. Therefore, he is entitled to be appointed as permanent employee in the bank on the post to which he has eligible qualification; however, on the basis of the principles of no pay for no work, he will not be entitled for any arrear of wages.

16. Thus, the reference is decided with the observation as under: “the action of management of State Bank of India, Ahmedabad in terminating the services of Shri Santoshkumar H. Tiwari was not legal and was unjustified.”

17. On the basis of the principle of no pay for no work, he will not be entitled for the wages till the date of the publication of the award. From the date of the publication of the award, he will be appointed as regular employee and be entitled for the normal wages.

18. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 9 मई, 2017

का.आ. 1228.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 61/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.05.2017 को प्राप्त हुआ था।

[सं. एल-12012/270/93-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 9th May, 2017

S.O. 1228.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 61/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 09.05.2017.

[No. L-12012/270/93-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 23rd March, 2017

Reference : (CGITA) No. 61/2004

The Regional Manager,
State Bank of India,
Regional Office, C.N. Vidhyalaya Road,
Ambavadi,
Ahmedabad (Gujarat) – 380001

...First Party

V/s

Shri Kaushal Kumar H. Tiwari,
Amaraji Nagar, Room No. 559/2,
Nr. Defence Colony, Kubernagar,
Ahmedabad (Gujarat) – 380001

...Second Party

For the First Party : Shri M.J. Sheth

For the Second Party : Shri Prashant Chaudhary

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/270/93-IR(B-I) dated 16.01.1998 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of management of State Bank of India, Ahmedabad in terminating the services of Shri Kaushalkumar H. Tiwari is legal and justified? If not, to what relief the workman is entitled to?”

1. The reference dates back to 16.01.1998. In response to the notice issued by the tribunal, the second party workman submitted his statement of claim Ex. 2 on 26.03.1998 and the first party management submitted his written statement Ex. 8 on 23.02.1999.
2. The second party workman in his statement of claim Ex. 2 alleged that the first party bank recruited large number of employees and simultaneously also terminated the services of the existing employees under the garb of Badli employees in utter violation of Section 25 G and H of Industrial Disputes Act, 1947. The service conditions of the employee in the banking industry are always governed by Sastri/Desai Awards and neither of these awards permits engagement of Badli workmen. The so called Badli workmen worked uninterruptedly but the bank management applied artificial intermittent brakes with a view to avoid various fringe benefits. It is noteworthy that this workman had been working for a period since 1990 to 1991 as sub-staff on temporary basis in State Bank of India, Maninagar Branch till 12.06.1991. The branch manager of the said branch also issued an experience certificate dated 15.05.1991 for the work done during the aforesaid period which is enclosed here with this statement of claim. He has further alleged that various trade unions in the State Bank of India were agitating for absorption/regularisation of the temporary employees who were put in minimum 60 days of service. Therefore, the bank management took a decision to conduct the written examination cum interview for the purpose of absorption of temporary/Badli employees who have worked for minimum 60 days. The workmen approach the branch manager at the time of terminating of his service for asking the reasons of termination more particularly when worked was very much available and existing and new hands were recruited on temporary casual basis to do the same job which he was performing. The branch manager did not give a satisfactory and verbally informed that bank has taken the decision not to allow any workman to work for a considerable long period with a view to avoid the claims for regularisation/absorption. He was also informed that he will be given a reasonable opportunity in the written test to qualify for regular absorption in the bank and advertisement appeared in the newspaper asking the temporary/Badli/casual candidates to apply for regularisation or absorption. He submitted the application for regularisation but he was not considered, thus, non-consideration of his application makes his a case of constructive termination of employment without any notice in writing or notice pay in lieu thereof. He has further alleged that the Desai awards governing the service conditions of the bank employee stipulated that the services of the temporary employee can only be terminated by 7 days' notice and if a temporary employee wishes to leave, the employment he also has to give 7 days' notice or deposit 7 days' pay leave thereof. The management kept the matter waiting for consideration for regularisation/absorption but his case was not considered. Therefore, he moved for conciliation proceedings and therefore, the present reference. He has further alleged that termination of his service and denial of absorption is illegal and against the law provided under Section 25 F, G and H of the Industrial Disputes Act. Thus he has prayed for reinstatement with back wages with all fringe benefits like leave, bonus, gratuity, provident fund and other perks and perquisites.
3. The first party management State Bank of India in his written statement denied all the averments made in the statement of claim saying that the reference being non-maintainable and liable to be dismissed. It has also been submitted that the settlement dated 27.10.1988 entered into between State Bank of India and All India State Bank of India Federation under Section 2 (P) of the Industrial Disputes Act, proposing to give a chance for consideration for permanent appointment in the bank service against full time and part time vacancies including messengers/farrashes/Cash Coolies/Sweepers and Bank Guard etc. who were paid daily wages on mutually agreed basis and who were put in minimum 240 days temporary service in any continuous block of 12 calendar months or less, or 270 days aggregate service in any continuous block of 36 calendar months or 30 days aggregate temporary service in any calendar year or minimum of 70 days temporary service in block of 36 calendar months after 01.07.1975 and up to 31.07.1988 at any one or more branches/offices under a module(regional office) as existing or defined as on 31.07.1988. Accordingly an advertisement was published in the leading newspapers on 01.05.1991 asking all the daily wagers who fulfil the aforesaid eligibility criteria to submit the application for the regularisation/absorption. The applicants were advised in the advertisement that the eligible daily wagers will be interviewed and those found suitable will be waitlisted and appointments will be offered in the nature of full time and part time as per the availability of the vacancies in the year 1995 and 1996 and this wait list will remain valid up to 1996. Subsequently, on 20.08.1991, the eligibility date was extended up to 14.08.1991 thus the daily wagers who put in requisite period of temporary service on daily wage basis for the period from 01.07.1975 to 14.08.1998 were made eligible to apply. It is admitted that this workman worked in full time capacity as a badli watchman for 88 days in the year from 1990 to 1991 and he submitted an application despite the fact that he was not a daily wager and did not fulfil the requisite criteria of eligibility, therefore, his application was rejected being not eligible for the consideration. It is wrong to say that his application was rejected in the grab of badli employee and his services were terminated in violation of the Section 25 F, G and H of the Industrial Disputes Act, 1947. Thus the action of the bank was not discriminatory, unfair, unjust, improper and illegal. Therefore, the reference has no force and liable to be dismissed.
4. The statement of claim is annexed with the copy of the reference, a judgement of the High Court dated 23.12.1997, a certificate issued by the State Bank of India, Maninagar Branch showing that in the year 1989 he worked

for 18 days and in the year 1990, he worked for 70 days and in the month of January and February, he worked for 6 days.

5. The written statement is enclosed with the copy of the settlement, copy of the notice for inviting applications from daily wages workmen etc.

6. On the basis of the pleadings, following issues arise:

Issue No. i : Whether the action of management of State Bank of India, Ahmedabad in terminating the services of Shri Kaushalkumar H. Tiwari is legal and justified?

Issue No.ii : To what relief, if any, is the workman entitled?

7. Both the parties submitted their written arguments Ex. 20 and 21 respectively.

8. **Issue No. i & ii :** The burden of prove of this issue was lying on the second party workman who in his statement on oath Ex. 15 stated that he joined as reliever watchman in Maninagar Branch of State Bank of India on 14.07.1990 on daily wages at the rate of Rs. 55/- per day, thereafter, Rs. 60/- per day and lastly when he was relieved by an oral order at the rate of Rs. 65/-. He was not given any notice or notice pay at the time of relieving/terminating. He tried to find a job after termination but failed to obtain any employment. He applied to be appointed as permanent employee in State Bank of India but he was not called for interview. Another man was appointed in his place after his termination. He was issued a certificate Ex. 4/4 duly signed and issued by the branch manager of Maninagar Branch of State Bank of India showing that in the year 1989 he worked for 18 days and in the year 1990, he worked for 70 days and in the month of January and February, he worked for 6 days. In his cross-examination, he reiterated that he had been working as full time reliever watchman when the permanent watchman absents from duty. He also stated that he was paid wages for performing duty as reliever in the absence of a permanent watchman. He further stated that in the bank, daily wager workman and permanent employee are be engaged. The bank has not given certificate for working. The certificate for his working in his last 2 months up to 15th May of 1991 but it is true that these certificates have given him as reliever watchman. He was not a daily wager. He had been given wages for the days during which he performed duty. The opposite first party did not prefer to give any oral or documentary evidence in rebuttal.

9. The bank vide index Ex. 9 submitted the copy of the settlement dated 7.10.1988, the copy of the notice/advertisement for recruitment of daily wagers. It can be said that the work experience certificate Ex. 4/4 regarding 94 working days of this second party workman can be said to be true as the rebuttal has not been filed.

10. The advocate of the second party argued that this workman worked for 94 days in 19 months in the year from August 1989 to February 1991. On the basis of these working days period, the advocate argued that as per the settlement and advertisement, he was eligible to be called for interview on the ground that eligibility criteria of the temporary employee was based on the working of daily wages employees who have worked as follows: “(i) 240 days’ temporary service in 12 months or less after 01.07.1975 or (ii) 270 days’ aggregate temporary service in any continuous block of 36 calendar months after 01.07.1975 or (iii) a minimum of 30 days’ aggregate temporary service in any calendar year after 01.07.1975 or 70 days’ aggregate temporary service in any continuous block of 36 calendar months after 01.07.1975.”

11. The advocate for the first party countered the arguments of the second party workman vide his argument Ex. 21 on the ground that the second party workman was not in temporary service of the bank. He was simply a badli watchman on the daily wage basis, therefore, the discontinuation of his service does not violate the provisions of Section 25 of F, G and H of the Industrial Disputes Act, 1947 but he has admitted in his argument that as per the settlement, any adopt employee or employee on fix remuneration basis against leave/casual vacancies of messengers/farrashes/cashcoolies/water boy/sweeper/bodyguards etc. having worked for 38 days’ aggregate temporary service in any calendar year after 01.07.1975 or 70 days’ aggregate temporary employee in any continuous block of 36 calendar months after 01.07.1975 was eligible for consideration for regularisation as per the settlement. In the present case, the second party workman has worked for 94 days in 36 block months and 30 days in one calendar year.

12. The only question remains to be resolved that whether badli employees were eligible for appointment on permanent basis or not. In Ram N. Ravat V/s Ashwani Ray 2017 1 CLR 658 the apex court observed as under:

“(5) Learned counsel who appeared for these petitioners have drawn our attention to the relevant provisions of the standing orders on the basis of which they were classified as permanent. It is standing order no. 2 which deals with classification of the employees and reads as under:

“2. Classification of Employees – Employees shall be classified as (i) permanent, (ii) permanent seasonal, (iii) probationers, (iv) badlies, (v) apprentices, and (vi) temporary.

- (i) A 'permanent' employee is one who has completed six months' satisfactory service in a clear vacancy in one or more posts whether as a probationer or otherwise, or a person whose name has been entered in the muster roll and who is given a ticket of permanent employee.
- (ii) A 'permanent seasonal employee' is one who has completed service for a period equal to 2/3rd of the duration of a season or three months whichever is less in a clear vacancy and shall be deemed to be a permanent employee for the purpose of these orders.
- (iii) A 'probationer' means an employee who is provisionally employed to fill a clear vacancy, and who has not completed six months' satisfactory service in the aggregate.
- (iv) **A 'badli' employee means an employee who is employed on the post of a permanent seasonal employee, or a probationer or a permanent seasonal employee who is temporary absent.**
- (v) An 'apprentice' means a learner, provided that no employee shall be classified as an apprentice if he has had training for an aggregate period of one year provided further that a longer period of apprenticeship shall be required if prescribed by a law or an award, or by agreement with the representative of employees.
- (vi) 'Temporary employee' means an employee who has been employed for work which is essentially of a temporary character, or who is temporarily employed as an additional employee in connection with the temporary increase in the work of a permanent nature, provided that in case such employee is required to work continuously for more than six months he shall be deemed to be a permanent employee, within the meaning of clause (i) above."

(6) Once the labour court classified them as permanent, which classification had attained finality, it necessarily follows that they are entitled to all benefits which are to be given to regularly appointed employees."

13. The advocate for the first party concentrated his arguments only on the point that this workman was a badli employee, therefore, his retrenchment was violative of the provisions of Section 25 F, G and H of the Industrial Disputes Act, 1947 and also that he being a badli employee was not eligible to be considered for regularisation as per the settlement. These arguments have no force because in Ram N. Ravat Case (Supra), the definition of the badli employee is very much defined who are always employed on the post of a permanent seasonal employee or a probationer or a permanent seasonal employee who is temporary absent. Thus the arguments that the badli employees were not eligible, has no force.

14. The second party workman has proved that he worked for more than 30 days in 12 calendar months and 94 days in 36 block months which are not countered by way of rebuttal by the first party bank management.

15. Thus, in the light of the above reasons, second party workman was eligible for consideration for regularisation for the permanent post and he was illegally denied the said opportunity to be considered for regularisation. Therefore, he is entitled to be appointed as permanent employee in the bank on the post to which he has eligible qualification; however, on the basis of the principles of no pay for no work, he will not be entitled for any arrear of wages.

16. Thus, the reference is decided with the observation as under: "the action of management of State Bank of India, Ahmedabad in terminating the services of Shri Kaushalkumar H. Tiwari was not legal and was unjustified."

17. On the basis of the principle of no pay for no work, he will not be entitled for the wages till the date of the publication of the award. From the date of the publication of the award, he will be appointed as regular employee and be entitled for the normal wages.

18. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 9 मई, 2017

का.आ. 1229.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 672/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.05.2017 को प्राप्त हुआ था।

[सं. एल-41011/41/98-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 9th May, 2017

S.O. 1229.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 672/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 09.05.2017.

[No. L-41011/41/98-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 17th March, 2017

Reference : (CGITA) No. 672/2004

1. The General Manager,
Western Railway, Headquarter Building,
Churchgate, Mumbai – 400001
2. The Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda (Gujarat) – 394220
3. The Chief Project Manager - I,
Western Railway, 2nd Floor,
BG Station Building,
Railwaypura P.O., Ahmedabad – 380002

...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole Kothi,
Baroda (Gujarat)

...Second Party

For the First Party : R.S. Mathuresh

For the Second Party : R.S. Sisodia (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/41/98-IR(B-I) dated 04.05.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of Paschim Railway Karmachari Parishad, Baroda Division, Baroda for revising the date of grant of temporary status in respect of six workmen namely i) Manga Goberia, ii) Sakaldip B. iii) Vinod Babusingh iv) HarishankerJanga v) SangeluAnoop and vi) Smt. BijliPoonia from the year 1984 and for re-fixing their pay and allowances including all consequential benefits as admissible as per extent rules from time to time along with the payment of difference of such re-fixed pay and allowances is proper, legal and justified? If so, to what relief/benefits, these workmen are entitled and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 04.05.1999. The second party submitted the statement of claim Ex. 4 on 09.04.2001 and the first party submitted the written statement Ex. 11 on 04.11.2003 but on behalf of Paschim Railway Karmachari Parishad, R.S. Sisodia instead of leading evidence for a long time on 17.03.2017 did not press the reference and requested for withdraw from the reference.

2. Therefore, the reference is disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 9 मई, 2017

का.आ. 1230.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 190/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.05.2017 को प्राप्त हुआ था।

[सं. एल-41012/19/99-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 9th May, 2017

S.O. 1230.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 190/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 09.05.2017.

[No. L-41012/19/99-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 15th March, 2017

Reference : (CGITA) No. 190/2004

1. The Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda (Gujarat) – 394220
2. The Asstt. Engineer (South),
Western Railway,
Near Platform No. 4, Kalupur,
Ahmedabad (Gujarat) – 380001

...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
E/209, Sarvottam Nagar, Nr. New Railway Colony,
Sabarmati, Ahmedabad (380001)

...Second Party

For the First Party : Shri H.B. Shah

For the Second Party : Shri R.S. Sisodiya (from union)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L- 41012/19/99-IR(B-I) dated 11.05.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the Railway Administration, Western Railway, Baroda Division in removal from service upon Shri Chela Bhuda, T.S. Gangman with effect from 05.06.1998 on the charges of misconduct vide charge sheet No. E/308/CB/CPWI/MHD/97 dated 21.02.1997 is legal and justified? If not to what relief the concern workman is entitled and from which date?”

1. The reference dates back to 11.05.1999. After service of the notice, both the parties appeared and submitted their statement of claim and written statements.
2. The second party union Divisional Secretary Paschim Railway Karmachari Parishad Shri B.K. Sharma in the statement of claim Ex. 1 alleged that the workman Chela Bhuda was serving as temporary status Gangman under Assistant Engineer Western Railway Ahmedabad since his joining of service that is 20.09.1978. As per the Indian Railway Administration Manual, temporary status employees have the same right equal to the permanent employee but the workman Chela Bhuda was removed from the service without observing the procedure given in discipline appeal rules of Railway. Chela Bhuda requested the authorities to join several times but to no result. Disciplinary proceedings were eyewash as he was not given opportunity to defend. The reasons of absence from service were not taken into consideration while awarding the punishment. He was also not paid the salary of period of absence that too also punishment. Thus he has prayed for the following reliefs mainly:
 - a. Shri Chela Bhuda, who was removed when charge sheet No. E/308/CB/CPWI/MHD/97 dated 21.02.1997 should be set aside.
 - b. Shri Chela Bhuda be treated as continuous employees.
 - c. Shri Chela Bhuda should be awarded all consequential benefits for the period of removal.
 - d. Proper compensation to be awarded for mental torture caused to employee by wrong action of 1st party.
3. The first party in his written statement Ex. 4 admitted that the workman was a temporary status Gangman in their employment but denied rest of the averments made in the statement of claim alleging that this tribunal has no jurisdiction to adjudicate this reference. It is wrong to say that the workman was not giving sufficient opportunity to defend in the disciplinary proceedings initiative by the department for his long absence from the service. He did not defend himself in the inquiry. A proper inquiry was conducted and appropriate punishment of removal from service was awarded.
4. The first party vide index 5 submitted the whole record of the inquiry proceedings along with the inquiry report.
5. On the basis of the pleadings, the following issues arise which needs to be addressed by way of the award:

Issue No. i: Whether the action of the Railway Administration, Western Railway, Baroda Division in removal from service upon Shri Chela Bhuda, T.S. Gangman with effect from 05.06.1998 on the charges of misconduct vide charge sheet No. E/308/CB/CPWI/MHD/97 dated 21.02.1997 is legal and justified?

Issue No. ii: To what relief is the workman entitled?

6. **Issue No. i & ii:** In support of this issue, the workman submitted his affidavit Ex. 9 in form of examination in chief wherein he has stated that he is workman contemplated under Section 2 K of the Industrial Disputes Act, therefore, the reference is maintainable in this tribunal and the tribunal has the jurisdiction to adjudicate this matter. He submitted his reply before the inquiry officer stating that his parents were not keeping good health. He was only their son to look after them; therefore, he submitted an application to grant him permission to proceed on leave along with the medical reports of their parents. In the departmental inquiry, he submitted a written reply vide letter dated 26.07.1997 along with death certificate of his mother. Later his father was also expired. All the death certificates were submitted. Therefore, the allegation of long unauthorised absence is baseless. In the light of the aforesaid circumstances, the major penalty of removal from service was excessive and unjustified. In his cross-examination, he admitted that he proceeded on leave and remained absent from 14.11.1994 to 08.02.1997. He was very much present in the inquiry and he also received the copy of the inquiry report. In support of his evidence, he also submitted the copy of the charge-sheet and the zerox copies of the Railway Manual regarding the departmental proceedings.
7. The first party examined M.C. Tiwari Chief/Wage Inspector by way of submitting his affidavit Ex. 16 wherein he has reiterated the averments made in the written statement stating the workman remained absent from duty from 14.11.1994 to 08.02.1997 total 818 days which is gross misconduct of service, therefore, after a due inquiry and disciplinary proceedings, he was awarded penalty of removal from service. In his cross-examination he has not said anything contrary to the stand taken by the first party or anything farewell to the workman. Both the parties submitted their written arguments along with number of the decisions laid down by the apex court and various high courts.

8. I perused and considered the evidence and various judgements. It is admitted fact by the second party that he remained absent from 14.11.1994 to 08.02.1997 without sending any application for extension of leave. It is also admitted fact that he attended the disciplinary proceedings and submitted his reply. Thus it cannot be said to be justified that the principal of natural justice were not followed in the inquiry or he was denied the opportunity to defend himself in the inquiry.

9. In the matter only thing is to be seen as to whether the long absence was justified or not. For the sake of argument, it is believed that his both the parents died after a long medical treatment but he has not submitted the detailed medical report to ascertain for how much time he was justified to remained absent from duty. Thus the absence of 818 days cannot be said to be justified. The first party submitted the death certificate of the mother of the workman as annexed with inquiry report submitted by first party which reveals that he died on 02.04.1997. It shows that the death of the mother of the workman occurred after initiation of disciplinary proceedings. He himself has admitted that he was the only son of his parents. Thus it would have been that he cared his parents at the place of posting instead of going to his birth place to attend his parents. However the job of gang-man is not so important that absence of a gang-man will hamper of the railway working. Therefore, in the light of the circumstances, the death of the parents of the workman, it would have been appropriate to order absence without pay and to permit him to join awarding him the punishment of withholding of 3 increments with cumulative effect.

10. The workman referred Jaipur Jilla Sahakari Bhumi Vikas Bank Limited V/s Ram Gopal Sharma (2002) 1 LLJ Supreme Court Page 834 which does not helping in any way. He also referred Director Fishries Terminal Department V/s Bhikubhai Meghajibhai Chavda (2010) 1 SC C 47 which is also not relevant as it deals with the matter of delay. Similarly, Ram Ashrey Singh V/s Ram Bux Singh (2003) SC C which is also not relevant in the matter but in Krishkant B. Parmar V/s Union of India (2012) 3 SC C 178 wherein the apex court ordered reinstatement with 50% back wages in the case of absence from duty during 3 consecutive periods of 36, 32 and 234 days. In the present, it is true that there was an unauthorised absence of 818 days but the workman has properly explained that he was the only son of his parents and he remained absent to look after their medical treatment leading into their death.

11. Thus in the light of the aforesaid discussions, the punishment of removal from service is not justified and is therefore, set aside. The workman be permitted to join awarding the punishment of withholding of 3 increments with cumulative effect without paying the wages for the period of absence and also with a warning that in future for any misconduct a stern action shall be taken.

12. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 9 मई, 2017

का.आ. 1231.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 755/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.05.2017 को प्राप्त हुआ था।

[सं. एल-41012/114/2001-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 9th May, 2017

S.O. 1231.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 755/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 09.05.2017.

[No. L-41012/114/2001-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 17th March, 2017

Reference : (CGITA) No. 755/2004

The Divisional Railway Manager,
Western Railway,
Pratapnagar,
Baroda (Gujarat) – 390004

...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole Kothi,
Baroda (Gujarat) – 390000

...Second Party

For the First Party : Shri Rakesh Sharma

For the Second Party : Shri R.S. Sisodia (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/114/2001-IR(B-I) dated 11.01.2002 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the Divisional Railway Manager, Western Railway, Baroda Division, Baroda for not offering the promotion to Shri A.S. Rana, Chief Ticket Clerk, from 01.03.1993 and not grant the monetary benefit for the up-gradation of the post for 01.03.1993 is justified? If not, what relief the concerned workman is entitled?”

1. The reference dates back to 11.01.2002. The second party submitted the statement of claim Ex. 4 on 09.01.2003 through his secretary Paschim Railway Karmachari Parishad and the first party submitted the written statement on 04.01.2006 but on behalf of Paschim Railway Karmachari Parishad, R.S. Sisodia instead of leading evidence for a long time on 17.03.2017 did not press the reference and requested for withdraw from the reference.
2. Therefore, the reference is disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 9 मई, 2017

का.आ. 1232.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 225/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.05.2017 को प्राप्त हुआ था।

[सं. एल-41012/221/99-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 9th May, 2017

S.O. 1232.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 225/2004) of the Central Government Industrial Tribunal-cum-

Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 09.05.2017.

[No. L-41012/221/99-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 17th March, 2017

Reference : (CGITA) No. 225/2004

The Divisional Railway Manager,
Western Railway, Baroda Division,
Pratapnagar,
Baroda (Gujarat) – 390004

...First Party

V/s

The President,
Paschim Railway Karmachari Parishad,
E/209, Sarvottam Nagar, Nr. New Railway Colony,
Sabarmati,
Ahmedabad (Gujarat)

...Second Party

For the First Party : Mukesh Pandit

For the Second Party : R.S. Sisodia (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/221/99-IR(B-I) dated 26.11.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the policy of Railway Administration of Baroda Division for calling the written option in order to fill up the vacancies of Artisan Category from the junior employees and to ignore senior employees without their written refusal for such Trade Test of Artisan Category is legal, proper and justified?”

“Whether the action of Railway Administration of Divisional Railway Manager, Western Railway, Baroda Division and its officers in not promoting Shri Saligram B., Valveman to the post of ‘Pipe Fitter Grade – III/ Pipe Fitter Grade- II’ at par with his junior employees is legal, proper and justified? If not, to what relief the concerned workman Shri Saligram B. is entitled to and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 26.11.1999. The second party submitted the statement of claim Ex. 4 on 27.09.2000 and the first party submitted the written statement Ex. 6 on 19.02.2001. Since then the second party refrained to lead evidence. On behalf of Paschim Railway Karmachari Parishad, R.S. Sisodia instead of leading evidence for a long time on 17.03.2017 did not press the reference and requested for withdraw from the reference.

2. Therefore, the reference is disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 9 मई, 2017

का.आ. 1233.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों आर उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 40/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.05.2017 को प्राप्त हुआ था।

[सं. एल-41011/105/2012-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 9th May, 2017

S.O. 1233.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 40/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 09.05.2017.

[No. L-41011/105/2012-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 22nd March, 2017

Reference : (CGITA) No. 40/2013

1. The Dy. Chief Engineer (C),
Western Railway,
Pratapnagar,
Baroda
2. The Sr. Section Engineer (C/P. Way),
Western Railway,
Pratapnagar,
Baroda

...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole, Kothi,
Baroda

...Second Party

For the First Party : Shri N.S. Waghela

For the Second Party : Shri R.S. Sisodia (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/105/2012-IR(B-I) dated 20.02.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the union to give the promotion to Shri Abhaysingh Gambhir on the pay scale of Rs. 3050-4590 is legal, proper and just? If so, what relief Shri Abhaysingh, Gang-man is entitled to?”

1. The reference dates back to 20.02.2013. In response to the notice issued to the parties, neither of the parties submitted their statement of claim or written statement as the case may be. Now on 22.03.2017, Shri R.S. Sisodia, Divisional Secretary, Paschim Railway Karmachari Parishad on behalf of the workman stated that he does not want to press the dispute in the reference.

2. Therefore, the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 9 मई, 2017

का.आ. 1234.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 63/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.05.2017 को प्राप्त हुआ था।

[सं. एल-41011/53/2014-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 9th May, 2017

S.O. 1234.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 63/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 09.05.2017.

[No. L-41011/53/2014-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 17th March, 2017

Reference : (CGITA) No. 63/2014

The Divisional Railway Manager,
Western Railway, Divisional Office,
Kothi Compound,
Rajkot

...First Party

V/s

The President,
Paschim Railway Karmachari Parishad,
281/C, Vishwamitri Township,
Near Vishwamitri Railway Station,
Mangalpur,
Vadodara (Gujarat) – 390011

...Second Party

For the First Party : None

For the Second Party : Shri R.S. Sisodia (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/53/2014-IR(B-I) dated 04.07.2014 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the Divisional Railway Manager (E), Western Railway, Rajkot Division, Rajkot in imposing the penalty of stoppage of increment for three years to Shri Prabhashankar Pandey, Sr. Safaiwala is justified? If so, what relief, the employees, Shri Prabhashankar Pandey, Sr. Safaiwala is entitled to?”

1. The reference dates back to 04.07.2014. The second party did not submit the statement of claim however National Vice President, Bhartiya Railway Mazdoor Sangh, R.S. Sisodia on behalf of Paschim Railway Karmachari Parishad on 17.03.2017 did not press the reference and requested for withdraw from the reference.
2. Therefore, the reference is disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 9 मई, 2017

का.आ. 1235.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 752/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.05.2017 को प्राप्त हुआ था।

[सं. एल-41011/19/2001-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 9th May, 2017

S.O. 1235.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 752/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 09.05.2017.

[No. L-41011/19/2001-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 17th March, 2017

Reference : (CGITA) No. 752/2004

1. The General Manager,
Western Railway, Churchgate,
Mumbai – 400001
2. The Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda (Gujarat) – 394220
3. The Assistant Engineer,
Western Railway,
Anand – 388001

...First Party

V/s

The General Secretary,
Paschim Railway Karmachari Parishad,
E/209, Sarvottam Nagar, Nr. New Railway Colony,
Sabarmati, Ahmedabad – 380001

...Second Party

For the First Party : R.D. Mathuresh
 For the Second Party : R.S. Sisodia (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/19/2001-IR(B-I) dated 03.09.2001 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the Divisional Railway Manager, Western Railway in issuing promotion order in respect of Shri Ramesh Chandra Bhaiya (SC) as A/Winder Gr.I w.e.f. 19.05.1999 whereas he cleared the Trade Test for such promotion on 12.08.1996 and then denying retrospective economic benefits is justified? If not, what relief the concerned workman is entitled?”

“Whether the action of Sr. Section Engineer (EW)/ Railway Management in withholding part payment of overtime to Shri Madan Lal, ELF and others working under SSE (EW), Sabarmati for the period from 27.07.1984 to 29.04.1995 is justified? If not, what relief the concerned persons is entitled?”

1. The reference dates back to 03.09.2001. The second party submitted the statement of claim on 13.10.2004 but the first party did not submit the written statement. Since then the second party refrained to lead evidence. On behalf of Paschim Railway Karmachari Parishad, R.S. Sisodia instead of leading evidence for a long time on 17.03.2017 did not press the reference and requested for withdraw from the reference.
2. Therefore, the reference is disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 9 मई, 2017

का.आ. 1236.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 25/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.05.2017 को प्राप्त हुआ था।

[सं. एल-41011/99/2011-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 9th May, 2017

S.O. 1236.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 25/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 09.05.2017.

[No. L-41011/99/2011-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
 Presiding Officer, CGIT-cum-Labour Court,
 Ahmedabad,
 Dated 17th March, 2017

Reference : (CGITA) No. 25/2012

1. The Sr. Divisional Engineer (N),
 Western Railway,

Pratapnagar,
Baroda (Gujarat)

2. The Assistant Divisional Engineer (N),
Western Railway,
Nadiad (Gujarat)

...First Party

V/s

The Divisional Secretary,
Paschim Railway Karamchari Parishad,
Shastri Pole Kothi,
Baroda (Gujarat) – 390001

...Second Party

For the First Party : Shri A.G. Paleherkar (Railway Representative)

For the Second Party : Shri R.S. Sisodia (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/99/2011-IR(B-I) dated 09.01.2012 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the union that Shri Budha Mohan should be considered retired on 29.02.2004 and granted pension from 01.03.2004 and other retirement benefits like PF, gratuity, commutation, leave salary, amount of group insurance scheme etc. and not recover the amount of salaries paid to him from 01.03.2004 to 30.03.2010 is legal and justified? To What relief the workman is entitled?”

1. The reference dates back to 09.01.2012. The second party submitted the statement of claim Ex. 11 on 13.09.2013 through his National Vice President, Bhartiya Railway Mazdoor Sangh, R.S. Sisodiya who later on 17.03.2017 did not press the reference and requested for withdraw from the reference.
2. Therefore, the reference is disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer